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STATE OF CALIFORNIA
INTEGRATED WASTE MANAGEMENT BOARD
RIGID PLASTIC PACKAGING CONTAINER INFORMAL RULEMAKING
PROCESS ADVISORY GROUP

JOE SERNA, JR., CAL/EPA BUILDING
1001 I STREET
2ND FLOOR
TRAINING RM 2 EAST & WEST
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TIFFANY C. KRAFT, CSR, RPR
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PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES

BOARD MEMBERS

Ms. Margo Reid Brown

Ms. Rosalie Mul

STAFF

Mr. Mark Leary, Executive Director

Ms. Julie Nauman, Chief Deputy Director

Mr. Elliot Block, Chief Counsel

Mr. Jerry Beruman, Staff

Mr. Harllee Branch, Staff Counsel

Ms. Rachel Davis, Board Advisor

Ms. Tamar Dyson, Staff Counsel

Ms. Jan Howard, Staff

Mr. Jim Lee, Deputy Director, Special Waste Division

Mr. Howard Levenson, Program Director, Waste Prevention & Market Development

Mr. Bill Orr, Branch Manager, Recycling Technologies

Mr. Edgar Rojas, Staff

ALSO PRESENT

Mr. Steve Alexander, Association of Postconsumer Plastic Recyclers, telephonic

Mr. Gerald Claes, Graham Packaging, telephonic

Mr. Bill O'Grady, Talco Plastics, Inc., telephonic

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APPEARANCES CONTINUED

ALSO PRESENT

Mr. George Larson, Illinois Tool Works and America
Chemistry Counsel

Mr. Jack Mcaneny, Proctor & Gamble

Mr. Tom Padia, Alameda County Waste Management Authority,
telephonic

Mr. Dennis Sabourin, NAPCOR, telephonic

Mr. Parham Yedidsion, Envision Plastics, telephonic

Ms. Amy Zettlemoyer, Wal-Mart, telephonic

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1 PROCEEDINGS

2 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR

3 LEAON: This is Michael Leao, Supervisor of the Plastics
4 Recycling Technology Section. Welcome to this morning's
5 meeting, the Rigid Plastic Packaging Container Rulemaking
6 Advisory Committee. I appreciate the Committee members
7 making their time available to us and helping us with this
8 informal rulemaking process.

9 Start the meeting by going over the agenda. And
10 I do have a couple housekeeping announcements. First of
11 all, we do have a court reporter in the room. So for
12 those of you on the phone and in the room as well, it will
13 be important when you have a comment or question that you
14 identify yourself. And when we're going around doing
15 introductions, please also identify the organization that
16 you're representing today.

17 Another bit of housekeeping, in case of an
18 evacuation, an alarm will sound, which has happened in our
19 meetings in the past. We will have to evacuate the
20 building. Please follow the exit signs. If we have to
21 relocate across the street, take care crossing the street.
22 And in the event that happens, it typically takes us about
23 a half hour before we can reconvene the meeting.

24 So with that, I think we'll do introductions.
25 And why don't we start -- one more bit of housekeeping

1 before we do introductions. For the GoTo Meeting for
2 those of you on the phone, the number to join the GoTo
3 Meeting is 839-534-997. Again, that number is
4 839-534-997.

5 With that, why don't we start with introductions
6 here in the room. And perhaps we can begin on my right.

7 MR. MCANENY: Good morning. I'm Jack Mcaneny.
8 I'm with Proctor and Gamble.

9 MR. POLLACK: Randy Pollack with the Law Office
10 of Randy Pollack.

11 MR. LARSON: George Larson representing Illinois
12 Tool Works and America Chemistry Counsel.

13 MS. HOWARD: Jan Howard, Waste Management Board,
14 the Rigid Plastic Packaging Container Program.

15 MR. BERUMAN: Jerry Beruman with the Plastic
16 Recycling Technology Section of the Integrated Waste
17 Management Board.

18 RECYCLING TECHNOLOGIES SUPERVISOR ORR: Bill Orr,
19 Integrated Waste Management Board, Recycling Technology
20 Branch.

21 STAFF COUSNEL DYSON: Tamar Dyson, Integrated
22 Waste Management Board, Legal.

23 STAFF COUNSEL BRANCH: Harllee Branch, Counsel
24 with the Waste Board.

25 EXECUTIVE DIRECTOR LEARY: Mark Leary, the

1 Executive Office.

2 PROGRAM DIRECTOR LEVENSON: Howard Levenson,
3 Waste Board, Director of the Sustainability Program,
4 adding to the overwhelming numbers of Waste Board staff.

5 BOARD ADVISOR DAVIS: Rachel Davis, Office of
6 Board Member Rosalie Mulé, Waste Board.

7 MR. ROJAS: Edgar Rojas, Waste Management Board,
8 Plastic Recycling Technology Section.

9 STAFF COUNSEL BLOCK: Elliot Block from the Waste
10 Board, Legal.

11 BOARD ADVISOR PECK: Chris Peck, Office of Board
12 Member Gary Peterson.

13 DEPUTY DIRECTOR LEE: Jim Lee, Waste Board staff.

14 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR
15 LEAON: Okay. That's everyone in the room. For those of
16 you on the telephone, again please identify yourself, name
17 and organization.

18 MR. YEDIDSION: Parham Yedidsion, Envision
19 Plastics.

20 MR. ALEXANDER: Steve Alexander, Association of
21 Postconsumer Plastic Recycler.

22 MR. O'GRADY: Bill O'Grady, Talco Plastics.

23 MR. CLAES: Jerry Claes, Graham Packaging
24 Company.

25 MR. PADIA: Tom Padia, stopwaste.org.

1 MS. ZETTLEMOYER: Amy Zettlemoyer, Packaging
2 Sustainable Volume Network of Wal-Mart, Inc.

3 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR

4 LEAON: Parham and Dennis, we could barely hear you. If
5 you could reintroduce yourselves so our court reporter
6 could capture your information and make sure you speak
7 loud.

8 MR. SABOURIN: I'll speak loud. Also for those
9 in the room on the phone, if they could speak loudly,
10 because I'm having difficulty hearing you all. Dennis
11 Sabourin, NAPCOR.

12 MR. PADIA: And Tom Padia, Stopwaste.org.

13 MR. YEDIDSION: Parham Yedidsion, Envision
14 Plastics.

15 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR

16 LEAON: Okay. All right. Well, with that, I'll briefly
17 go over the agenda for today. We'll cover the ground
18 rules for the meeting. Overview of the informal remaking
19 time line which is quite ambitious. We'll discuss our
20 guiding principles for today's meeting and the
21 brainstorming process. Through the brainstorming process,
22 we want to cover three main conceptual areas. These
23 include incorporating recent statutory changes,
24 clarification of definitions, and improvement of the
25 certification process. We'll have about 45 minutes for

1 each of those topics.

2 We've also reserved a time for a public comment
3 period for people that may have wanted to participate in
4 the meeting that weren't part of the Advisory Group,
5 though I don't think we have anybody in the room or on the
6 phone that is not part of the Advisory Group. So I think
7 we could use that time dedicate that time to our
8 brainstorming process.

9 (Thereupon an overhead presentation was
10 presented as follows.)

11 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR
12 LEAON: We can go to the next. Briefly, to reset the role
13 of the Advisory Group, the role of the Advisory Committee
14 is to provide suggestions to Board staff during this
15 informal rulemaking process regarding proposed changes to
16 the California rigid plastic packaging container
17 regulations. Today, we're talking conceptually. We won't
18 be getting into detail changes to regulatory language.

19 --o0o--

20 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR
21 LEAON: Regarding the ground rules, we do ask that one
22 person speaks at a time, especially since we have a court
23 reporter here. Make sure you do identify yourself when
24 you have a question or a comment.

25 No interruptions or criticisms. We want to

1 listen respectfully and sincerely. All suggestions will
2 be recorded. If we do get some suggestions that are
3 outside the scope of the rulemaking, we will have a
4 parking lot for those ideas. And we will allow questions
5 from the group to clarify ideas.

6 --o0o--

7 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR

8 LEAON: Regarding the time line, we do have a very
9 ambitious time line for the informal rulemaking process.
10 After we take comments on conceptual changes to the
11 regulations today, we will be revising -- actually
12 revising the regulations along the concepts that we
13 discussed today. And we hope to have those available to
14 the Advisory Committee by May 2nd. It will provide about
15 a two-week review and comment period for the Advisory
16 Committee running through about May 15th.

17 We have a second Advisory Committee meeting
18 scheduled for mid-May, May 16th. At that point, we'll
19 take further input from the Advisory Committee and do
20 further revisions to the draft regulations and hope to
21 have that completed by the end of May or May 31st.

22 At that point, we'll release the draft
23 regulations to a wider stakeholder group, provide for
24 review and comment period running through the end of June,
25 and then we'll have a stakeholder workshop at the end of

1 June on June 27th.

2 Taking the input from the stakeholders, staff
3 will then develop the final draft regulations and Initial
4 Statement of Reasons based on that input. We hope to have
5 that completed by August 2nd with objective of going to
6 the Board at its August or September Board meeting to
7 request approval to notice the regulations with the Office
8 of Administrative Law. Once we do that, then that
9 initiates the formal review and comment period. And we
10 will have one year to complete that rulemaking.

11 --o0o--

12 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR
13 LEAON: So beyond the informal process, there will be a
14 formal process after we notice the regulations with OAL.
15 So there will be ample opportunity for review and comment
16 of those draft regulations.

17 Concerning the need for these changes, we want to
18 take a fresh look at the regulations. The regulations
19 were written prior to the Board having any experience with
20 executing the program. They still reflect obsolete
21 provisions of statute which are no longer in effect.
22 Consequently, the regulations are burdened with dead
23 weight. It only makes them hard to read. It creates the
24 opportunity for confusion in the regulated community.

25 Also the question and answer format we feel is

1 difficult to follow, and we would like to move away from
2 that format. We need to totally revamp the way the
3 regulations are organized, make them more clear and more
4 easy to read. We need to revise key definitions which are
5 in need of clarification.

6 And also in regard to the actual certification
7 process, we feel we need to clearly spell out what those
8 steps are in the regulation, provide clear direction to
9 the regulated industry.

10 The specific conceptual areas we want to discuss
11 today include incorporating recent statutory changes,
12 improving clarity and organization, specifically in regard
13 to definitions, and making certification process
14 improvements.

15 --o0o--

16 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR
17 LEAON: The guiding principles that we'd like to apply in
18 this process include using filters about what changes
19 should we make. And those filters would include
20 environmental benefits and also improving the
21 certification process.

22 Regarding environmental benefits, the regulatory
23 changes should support the intent of the law. This
24 includes diversion of plastic materials from landfills and
25 increasing the use of recycled plastics and products and

1 packaging, increasing the recycling rate for plastics, and
2 improving the recyclability of products and plastic
3 products and packaging.

4 --o0o--

5 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR

6 LEAON: Concerning guiding principles for certification
7 process improvements, these changes to the regulations
8 should provide for more efficient and effective
9 implementation of the law, improve the clarity of the law,
10 and increase compliance with the law. In addition, we
11 want to ensure that the regulated community is treated
12 fairly and equitably amongst the various companies that
13 are regulated under this law.

14 --o0o--

15 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR

16 LEAON: That brings us to the process that we'll be using
17 today in brainstorming the concepts. Again, we will be
18 listening to all suggestions. Any suggestions which might
19 be outside the scope of the rulemaking, we'll record those
20 on a parking lot. Again, we want to apply our guiding
21 principles as a filter. And we want to group related
22 concepts.

23 The way we structured the meeting today and the
24 PowerPoint presentation, we've actually done a lot of that
25 work. However, we can further group concepts or

1 additional ideas that are brought forth today.

2 Regarding prioritization, we didn't want to get
3 input from the Advisory Committee on prioritizing the
4 concepts that we've identified, and we had intended to do
5 that through a voting process. But due to the length of
6 time we have for today's meeting, that may not be
7 practical. So as an alternative, what we'll do is send
8 out a survey to all of the Committee members after today's
9 meeting that identifies all of the concepts. And we will
10 ask the Advisory Committee to get that survey back to us,
11 essentially ranks the relative importance of the various
12 concepts that we've identified.

13 --o0o--

14 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR

15 LEAON: So that brings us to the brainstorming portion of
16 the meeting. But before we get to that, are there any
17 questions on any of the information I've provided?

18 Go ahead, George.

19 MR. LARSON: George Larson.

20 A question on the date for the time line, which
21 obviously is very rigorous. On May 2nd, I believe is the
22 date you noted that there will be -- was it a first draft
23 of -- is that draft based upon staff's internal analysis
24 and review, or will input from this group be incorporated
25 into that version?

1 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR

2 LEAON: Yes. We would like to take input from today's
3 meeting to help us develop the actual revisions to the
4 regulations. And then we will release the draft
5 regulations to the Advisory Committee for review and
6 comment. In our second meeting, we'll focus on the actual
7 regulatory language.

8 MR. LARSON: Thanks.

9 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR

10 LEAON: Any other questions?

11 I would like to note that Board Member Mulé has
12 joined our meeting. Thank you for being here today.

13 BOARD MEMBER MULÉ: Thank you.

14 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR

15 LEAON: Is there anything you'd like to say before we
16 start?

17 BOARD MEMBER MULÉ: No.

18 RECYCLING TECHNOLOGIES MANAGER ORR: And Julie
19 Nauman is here as well.

20 --o0o--

21 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR

22 LEAON: The first conceptual area we'd like to cover is
23 incorporating recent statutory changes as a result of
24 Senate Bill 743 and 1344. The concepts that we've
25 identified that we feel we need to discuss in terms of

1 what type of regulatory approach we should be taking are
2 container manufacturer responsibility, single resident
3 type recycling rate, and use of postconsumer material
4 generated in California in the production of other plastic
5 products or packaging. That includes use directly by a
6 product manufacturer or through third-party agreements.

7 So before I get into the specifics on these, are
8 there any other conceptual areas stemming from those two
9 laws that the Committee would like to suggest?

10 MR. LARSON: George Larson again.

11 I would like if we could spend a little bit of
12 time on any interpretations by Board staff that SB 1344
13 created a credit trading structure. I think there's some
14 lack of clarity being involved in that process. There was
15 no intent that that bill would establish a credit trading.
16 It took the existing ability for a company to share
17 credits within its own corporate structure and put it
18 across on a horizontal plane so that companies under the
19 same corporate ownership but were different companies
20 could do the same thing. And, in fact, there is a bill in
21 the Legislature now that very specifically will address
22 credit trading. So I just want to -- I'd like to hear
23 some clarification on the Board's position on what 1344
24 did in your eyes.

25 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR

1 LEAON: Okay.

2 MR. SABOURIN: I have a clarification.

3 This is Dennis Sabourin.

4 Across company sharing credits across company

5 lines, is this irrespective of resin type or to be

6 considered within the same resin type?

7 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR

8 LEAON: Well, I think that gets us into the specifics,

9 Dennis, on the third on the use of postconsumer material.

10 And we'll address that when we discuss that particular

11 concept.

12 MR. SABOURIN: Great. Thank you.

13 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR

14 LEAON: Let's begin with container manufacturer

15 responsibility.

16 --o0o--

17 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR

18 LEAON: Basically, our question here, is the statute clear

19 enough? Under new statutory provisions, container

20 manufacturers are now liable for any penalties accrued by

21 product manufacturers if those penalties are the result of

22 a container manufacturer providing inaccurate information

23 to the product manufacturer.

24 So I think what we need to discuss here, is the

25 statute clear enough, or do we need to put anything in

1 regulation to make the statute more specific, more clear?
2 I think our feeling is probably the statute is clear
3 enough on this point.

4 MR. YEDIDSION: This is Parham Yedidsion.

5 When you say container manufacturer, you're
6 talking the third party molder?

7 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR

8 LEAON: Yes. The product manufacturer which is purchasing
9 its containers from a molder, yeah.

10 MR. YEDIDSION: The molder of the container or --

11 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR

12 LEAON: The molder of the container is now liable for any
13 penalties that a product manufacturer may become liable
14 for if those penalties are resulting from inaccurate
15 information supplied by a container manufacturer. For
16 example, they provided inaccurate information on the
17 amount of recycled material in the containers that they're
18 providing to the product manufacturer. The product
19 manufacturer relied on that information. And if that
20 information turned out to be inaccurate and that brought
21 them under, say, the 25 percent recycled content on
22 average for their container lines, making them subject to
23 penalty, under that circumstance, the container
24 manufacture becomes liable for any penalties associated
25 with that violation.

1 MR. YEDIDSION: To the Board or the product
2 manufacturer?

3 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR
4 LEAON: To the Board.

5 MR. YEDIDSION: And is there a way for the Board
6 to find this out?

7 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR
8 LEAON: Yes. Through the certification process. We do
9 have the authority to audit, and that is information that
10 could be discovered through an audit.

11 MR. YEDIDSION: Okay.

12 MR. CLAES: This is Jerry Claes with Graham
13 Packaging.

14 Since I think I'm the only container manufacturer
15 on the call, I just -- as I understand it, the penalty
16 only is if I supply inaccurate information in the form
17 that the brand owner supplies to me.

18 I just want to make sure that everybody is very
19 clear as we get into definitions in terms of that we're
20 calculating these numbers exactly the same way and that
21 there's no uncertainty on -- because it happens all the
22 time within our own company. And I'm the keeper of the
23 recycling content for all of our packages. And I can tell
24 you it gets very confusing. And a number of the clients
25 are always contesting the numbers. And ultimately, I'm

1 the final authority on what the recycled content is in all
2 the bottles that we certify for California. I just want
3 to make sure that it's very, very clear on how that number
4 is arrived at.

5 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR

6 LEAON: Okay. So you're referring to the calculations
7 that you're using internally to determine the amount of
8 postconsumer material?

9 MR. CLAES: I want to make sure the calculations
10 that I'm doing internally comply to the letter with what
11 the State of California expects. I don't want to be
12 having an audit and find out my numbers say one thing and
13 you expected me to calculate those numbers a different
14 way.

15 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR

16 LEAON: Because the calculations that are spelled out in
17 the regulation pertain to how to do corporate averaging.
18 So I don't think that there are any specifics in the
19 statute or in regulation that pertain to how a container
20 manufacturer arrives at its --

21 MR. CLAES: The devil is always in the details.
22 I'll give you one simple example. You'll get two
23 different numbers. Let's saying you were doing an audit
24 for 2006. If I take the numbers for the entire year, I
25 will get one number. If I take the average for the twelve

1 months, add them up and divide by twelve, I will get a
2 different number.

3 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR

4 LEAON: Okay. Maybe we can put this as a parking lot
5 issue.

6 RECYCLING TECHNOLOGIES MANAGER ORR: It's within
7 the scope, so I would just make sure we record it up here.

8 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR

9 LEAON: Okay. All right.

10 RECYCLING TECHNOLOGIES MANAGER ORR: So Jerry is
11 running the computer. And if you're in the GoTo Meetings,
12 please make sure that what Jerry is recording reflects
13 what your comment is. So whether you're in the room or
14 whether you're on the phone, that's going to be sort of
15 our guide or issues to review.

16 MR. CLAES: I'm on line. Can I go in and enter
17 my definition of all these things?

18 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR

19 LEAON: You can e-mail to it us.

20 MR. MCANENY: This is Jack Mcaneny with Proctor
21 and Gamble.

22 As I'm looking at the screen, Jerry, if I heard
23 you correctly, what you're talking about is the method of
24 calculation for average PCR content?

25 MR. CLAES: Right.

1 MR. MCANENY: I would suggest that be specified
2 there.

3 MR. PADIA: This is Tom Padia.

4 I just want to make sure I understand the
5 distinction that was made in that question. So you were
6 saying if there's different quantities of containers made
7 in different months, the average for the year would be
8 different than the average of the twelve months?

9 MR. CLAES: Absolutely. I know there's confusion
10 right now, because I've had this conversation with other
11 container manufacturers.

12 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR
13 LEAON: Okay. We will capture that and give that some
14 consideration.

15 MR. CLAES: I will send you an e-mail on my
16 method of calculation.

17 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR
18 LEAON: All right. Thank you for that.

19 Do we have any other comments or questions on
20 container manufacturer responsibility? Okay.

21 --o0o--

22 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR
23 LEAON: The next issue under this topic is the single
24 resin type recycling rate. This provision is actually
25 already reflected as a compliance option in the

1 regulations. And the regulations spell out the procedures
2 for a product manufacturer developing methodology and
3 submitting that methodology to the Board to comply through
4 that option.

5 Our question: Is there anything additional that
6 would we would need to include beyond what is already in
7 the regulations? Again, I think the existing regulatory
8 language is probably adequate for this. Again, we would
9 expect the product manufacturer to submit us their
10 methodology in which they would determine a recycling rate
11 for a particular type of resin. And if that resin is
12 recycled at a 45 percent recycling rate, then that would
13 be a demonstration of compliance.

14 The other option currently in the regulations
15 related to this is a product associated container
16 recycling rate. And again, product manufacturer or trade
17 association for that matter can develop a methodology to
18 determine a recycling rate for those type of containers
19 and if they have a 45 percent recycling rate. Again, that
20 would be a demonstration of compliance.

21 MR. LARSON: George Larson.

22 In the 16 years of this law, how many instances
23 have a product associated --

24 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR
25 LEAON: Dennis, can you hold your thought for one minute?

1 We have another question in the room here.

2 MR. LARSON: In the history of the law, how many
3 times has a product associated compliance option been
4 utilized?

5 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR
6 LEAON: To my knowledge, there has been no company that
7 has used that compliance option.

8 MR. LARSON: Would that seem like a obsolete --

9 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR
10 LEAON: Obsolete provision? I don't know that it's
11 obsolete. I think --

12 STAFF COUNSEL BRANCH: It's not obsolete. It's
13 still in the statute. It remains an option until the
14 Legislature takes it out.

15 MR. LARSON: I'm thinking the function of this
16 body and the Board is to make recommendations to bring the
17 regulations up to speed. But hopefully to think about how
18 in clarifying the law there might be additional steps
19 taken to make it more reasonable, at least in terms of
20 understanding what's trying to be done.

21 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR
22 LEAON: Okay.

23 RECYCLING TECHNOLOGIES MANAGER ORR: So, well, is
24 that a clarification in the regulations? Which if that's
25 true, we should put something there. Or if it's to look

1 at it under the statute, it should go into the parking
2 lot. Which would you think that would be, George?

3 MR. LARSON: I defer to the legal counsel's
4 determination. But I think this is statutory.

5 RECYCLING TECHNOLOGIES MANAGER ORR: Okay. Then
6 why don't we put that in the parking lot.

7 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR
8 LEAON: Dennis, you had a comment on this?

9 MR. SABOURIN: Yes, I do. I was assumed the
10 attainment specific recycling rate for resin does not
11 satisfy RPPC and it has to have certain recycling content.
12 Am I wrong in that assumption?

13 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR
14 LEAON: The law provides various compliance options.
15 Recycled content is one. Source reduction is another.
16 Refill and reuse are also compliance options that are
17 available. And in addition, the resin type recycling rate
18 or product associated container type recycling rate are
19 also compliance options. And those are 45 percent
20 recycling rates.

21 MR. SABOURIN: I thought that was all container.

22 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR
23 LEAON: It's in the regulations currently. It was
24 provided for in statute. And again, changing that would
25 require a statutory change.

1 MR. SABOURIN: Is that for the entire resin or
2 product specific?

3 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR

4 LEAON: Yeah. There's two options there. One is for
5 specific resin type, and the other is for a product
6 associated container type. I guess the simple example
7 would be motor oil.

8 MR. SABOURIN: Okay. So carbonated soft drink
9 bottles made of PVC had a recycling rate of 50 percent,
10 that would satisfy the regulation.

11 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR

12 LEAON: Right. They're exempt from the law, food,
13 cosmetics, and pharmaceuticals.

14 MR. SABOURIN: Motor oil bottle. Thank you.

15 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR

16 LEAON: So, Dennis, what is your thought on that? Is that
17 something you'd like to see stay in the law, or is that
18 something that you're thinking maybe should be removed as
19 an option?

20 MR. SABOURIN: Well, certainly is a target. Very
21 high threshold. I think I would personally have no
22 problems with that staying in the law with the option.
23 Something else I want to talk about.

24 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR

25 LEAON: Okay. Perhaps then a statutory change would be to

1 look at the actual recycling rate, whether 45 percent is a
2 right number.

3 MR. SABOURIN: That is a possibility, yes.

4 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR

5 LEAON: Okay. Can we capture that on the parking lot?

6 Thank you, Dennis.

7 STAFF COUNSEL BRANCH: Dennis, I'm having a hard
8 time hearing. Is there anything you can do to make
9 yourself louder?

10 MR. SABOURIN: Is that better?

11 STAFF COUNSEL BRANCH: Yes.

12 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR

13 LEAON: Okay. Let's move on to use of California
14 postconsumer material and other plastic products or
15 packaging by the product manufacturer. I think what we
16 need to consider here in terms of regulations is what sort
17 of documentation is required. Certainly, I think the
18 starting point is the product manufacturer should still
19 submit a certification form, because we will have to
20 identify the amount of postconsumer material they will
21 need to comply.

22 In addition, we would need to see purchase orders
23 or contracts for the purchase of an equivalent amount of
24 California PCM that then goes into other non-RPPC
25 packaging or other products. And we would also like to

1 have an idea of what type of packaging and products that
2 that equivalent amount of California PCM is going in. So
3 I'd like to open that up for questions and comments and
4 suggestions regarding documentation we're going to need to
5 verify compliance under this option. George.

6 MR. LARSON: George Larson.

7 I think this is clearly a new area that is in
8 need of regulatory clarification similar to the
9 accountability that's necessary under the existing law in
10 order to provide sufficient and audible track record for
11 postconsumer resin, particularly to use in other products
12 like rigid plastic containers.

13 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR
14 LEAON: Okay.

15 MR. CLAES: This is Jerry Claes with Graham
16 Packaging.

17 Would this be resin specific, or would it be any
18 type of recycled plastic?

19 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR
20 LEAON: That's a good question. The statutory language is
21 not resin specific. So it would be if the product
22 manufacturer is using California postconsumer material
23 regardless of the resin type, that would qualify.

24 MR. YEDIDSION: This is Parham Yedidsion with
25 Envision Plastics.

1 That is an area that I think needs to be
2 addressed in that part of the goal of this whole thing was
3 to try to bring about sufficient markets and usage of
4 specific type resins. So if you have a material that is
5 non-specific going into a product line that an affiliate
6 of a certain company has, and they're able to use it at
7 100 percent but be able to take a credit against, let's
8 say, the requirements for PET use, that defeats the
9 purpose.

10 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR
11 LEAON: Okay. So your concern is that product
12 manufacturers will be able to use, say, a material that's
13 in other products and then revert to less recyclable resin
14 types in their packaging?

15 MR. YEDIDSION: Correct. The RPPC set up, let's
16 look at it. In terms of the collection side of it, in the
17 state of California, on the postconsumer side, we're
18 mainly looking at for the most part PET on the plastic
19 side of it. There is a percentage of other. And at that,
20 we're looking at mainly bottles at this point in time.

21 What I'm trying to say is if a company has, let's
22 say, two separate businesses -- and we're talking about
23 OEM here, correct, no container manufacturers. If a
24 company has a division that does high density bottles and
25 it also has a division that does polyethylene high density

1 ethylene flower pots, my understanding was that this would
2 say that you can go ahead and utilize high density
3 polyethylene into the flower pots in whatever percentage
4 you want and have the total poundage applied for what you
5 needed to put into your bottles, high density bottles.

6 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR
7 LEAON: That's correct.

8 MR. YEDIDSION: Now, what happens if these flower
9 pots are made out made out of grass? Are you going to be
10 able to take that credit and use it in HTPE bottles?

11 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR
12 LEAON: I'm not sure I follow that, that example.

13 MR. YEDIDSION: If the product that the flower
14 pot is made of is non-HTPE and you're using a non-HTPE
15 postconsumer material --

16 RECYCLING TECHNOLOGIES MANAGER ORR: It has to be
17 plastic.

18 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR
19 LEAON: It has to be plastic.

20 MR. YEDIDSION: It has to be plastic, because I
21 can give you a myriad of different types of plastic
22 products. But it's non-specific. In other words, it is
23 not what -- there is no regulation says you're making HTPE
24 between eight ounces and five gallons and you need to put
25 25 percent content if other things don't apply?

1 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR

2 LEAON: Right. Through the source reduction option.

3 MR. YEDIDSION: So the whole point was to try to
4 invigorate the industry in California whereby we can go
5 ahead and have a market for the collected high density
6 material. Now we're saying, okay, if a company has an
7 affiliate that makes a plastic widget, albeit it's not
8 HTPE or PET, it might be a mixture of acrylic, that's
9 whatever pound they put into that, they can take that and
10 apply it against a requirement they needed for their HTPE
11 bottle unit.

12 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR

13 LEAON: That's correct.

14 MR. YEDIDSION: And that thereby, that's the area
15 we have an issue with.

16 MR. CLAES: Parham, this is Jerry Claes.

17 I don't think you'd find any postconsumer
18 acrylics. So I think your example -- to me, the question
19 I have is what is the goal of this law? Is it to increase
20 the use of postconsumer plastics? Or is it to really try
21 to nudge out those packages that really are not recyclable
22 and in the determination of somebody or packages we would
23 just as soon not have in the marketplace?

24 Let me give you an example. The obvious example
25 is PVC. If I'm making PVC bottles, and obviously I can't

1 put postconsumer material in there, then if it's not resin
2 specific, then I can use 30 percent postconsumer high
3 density someplace else and take those extra pounds and
4 apply it to the PVC bottle, and in total I'd be in
5 compliance. But if you come down and say it needs to be
6 resin specific, then there is no way that a PVC bottle
7 that I know of could meet the regulation other than
8 through lightweight.

9 MR. YEDIDSION: This is Parham again.

10 Jerry, I understand where you're coming from. My
11 issue isn't necessarily what you're bringing up. My
12 understanding was that we want to promote especially
13 within the resin types that are most prominent PET and
14 HTPE the usage of this material.

15 MR. CLAES: And it will happen, because I'll be
16 using more high density.

17 MR. YEDIDSION: And again your example is
18 probably true on your end of it. What my concern is that
19 this can be used as a way to get out of the requirement to
20 use the established resin types. It's not that difficult
21 to find alternative materials.

22 STAFF COUNSEL BRANCH: Excuse me, just for a
23 second. This is Harllee Branch, Counsel with the Board.

24 Is this going more towards problems with the
25 statute itself? Because, if so, that's a genuine concern,

1 but I want to make sure this is all related to the actual
2 rulemaking.

3 MR. YEDIDSION: I don't know. That's something
4 Michael has to answer. But I think these are the areas we
5 are here to discuss.

6 BOARD ADVISOR PECK: Chris Peck with the Board
7 office.

8 I think it is related to the statute, and I
9 wanted to ask a question of counsel. While the statute is
10 not specific to resin types, do we have -- is it within
11 the Board's regulatory authority to make the regulations
12 specific, should we want to, to make it specific to resin
13 type?

14 STAFF COUNSEL BRANCH: That's something I'd have
15 to get back to you on.

16 MR. CLAES: That's the whole purpose of the
17 meeting I thought.

18 BOARD ADVISOR PECK: It seems to me the question
19 that's being raised in my mind the way I look at it is do
20 we want to allow container or product manufacturers to use
21 credit they get basically from using easily recycled
22 plastics to substitute -- to allow them to comply with
23 plastic products that are more difficult to recycle, in
24 which case we're not furthering the intent of the statute
25 which is to improve plastics recycling over all. What

1 we're doing is creating better and stronger markets for
2 HTPE and PET.

3 RECYCLING TECHNOLOGIES MANAGER ORR: I think we
4 have captured this issue. There are other provisions of
5 the statute that talk about not substituting a recyclable
6 resin for a less recyclable resin. So I think we need to
7 look at this issue in light of the statute overall and see
8 what our abilities are in this area.

9 MR. YEDIDSION: As long as at some point it is at
10 rest and there is limitations on it. And again, this is
11 not to boost PET or HTPE. This is try to close a
12 loophole, which there have been many in the past. With
13 good intent at heart, loopholes have been created whereby
14 a company can say, "I don't have to use or HD or PET or
15 PVC. I can buy a widget company that uses X amount of
16 mixed just plastics. I don't even care if it makes money.
17 It could loss money, doesn't matter. Use it 100 percent
18 and apply towards what I need to apply it for the other
19 resin types."

20 That's what I'm concerned about, not necessarily
21 if there is a resin type that is harder to find the
22 postconsumer of that you want to substitute. I think
23 that's very valid.

24 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR
25 LEAON: Okay. This is Mike. We have one more question in

1 the room. Before we get to that, George, Jerry, if you
2 could capture the question on whether we can address this
3 issue through regulation.

4 And, Jan, on the parking lot, I think we need to
5 also capture it as a statutory change issue.

6 And, George, you have additional comment or
7 question.

8 MR. LARSON: I have a comment as to intent of SB
9 1344. Again, basing that on my experience and
10 participating in that, the intent is to broaden the base
11 of postconsumer resins that could be used in a broader
12 array of products than RPPCs. Correct me if I'm wrong,
13 but by the Board's own characterization, RPPCs make up
14 one-tenth of one percent of the volume of materials
15 generated in the state of California. SB 1344 in its
16 intent -- and I appreciate the fact there's value in this
17 discussion, because nothing written in Pacoima places the
18 same throughout the state. But the intent was to broaden
19 the base of materials and products that could use
20 postconsumer resin.

21 And in order to pull the rope, if you will,
22 rather than push the rope in terms of trying to create new
23 actions that consume more postconsumer resin, I don't know
24 that anybody here on the phone or in this city would claim
25 this law focused on RPPCs has been a success. It's taken

1 a lot of our time, but I don't think it's generated the
2 changes necessary to increase postconsumer resin
3 consumption. And by broadening it beyond RPPCs, the
4 intent of 1344 was to do that.

5 RECYCLING TECHNOLOGIES MANAGER ORR: This is Bill
6 Orr.

7 I wanted to add one point of clarification.
8 RPPCs represent closer to a whopping half of a percent of
9 the waste stream. The one thing we haven't talked about
10 under this particular compliance option so far is that the
11 focus of it is actually California recycled plastic only.
12 So that hasn't come up so far. So I just thought it's not
13 going to be super easy, because a lot of manufacturing
14 plants are going to be outside of the state. So they
15 would need to get plastic from California.

16 I think one of the staff frustrations at times
17 with the RPPC law is that we've driven the recycled
18 plastic markets around the country without necessarily
19 making an impact in California. So the main positive that
20 I see is under sort of our environmental guiding
21 principles contributing toward California diversion. This
22 option I believe would contribute towards California
23 diversion. Because in order to use whatever plastic it
24 is, it has to be California plastics. So I just sort of
25 wanted to emphasize that one point. And that's in my view

1 probably the largest benefit of that new compliance
2 option.

3 MR. MCANENY: This is Jack Mcaneny with Proctor &
4 Gamble.

5 Just to build off that point, as I reviewed the
6 statute because that California specific caveat was in
7 there, I had interpreted that -- or my impression was it
8 was intended to be non-resin specific in terms of trying
9 to maximize the amount of diversion that did occur. So
10 that California-specific sourcing requirement, while I
11 think it ultimately adds to the complexity of how you
12 document the flow of where the material is actually
13 sourced, but I think because that in there it implied to
14 me it wouldn't be resin specific. I'll throw that out
15 there for consideration.

16 MR. O'GRADY: One last thing. This is Bill
17 O'Grady, Talco Plastics.

18 Just for my own clarification, I want to
19 understand that this is not resin specific, but it is
20 plastics specific. Correct?

21 RECYCLING TECHNOLOGIES MANAGER ORR: Yes.

22 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR
23 LEAON: Yes.

24 MR. O'GRADY: So in other words, somebody having
25 difficulty sorting polypropylene postconsumer could

1 replace that requirement with PET or polyethylene?

2 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR

3 LEAON: Yes.

4 RECYCLING TECHNOLOGIES MANAGER ORR: Jan had one
5 point.

6 MS. HOWARD: Maybe this will help.

7 Jan Howard with the Board.

8 The only one that's really resin specific is the
9 resin specific -- 45 percent resin specific recycling
10 rate, and that refers you back to the seven identified
11 resins which are one through seven. And that only applies
12 to the 45 percent resin specific rate. So the rest of
13 them, there is no resin. It's not resin specific.

14 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR

15 LEAON: Okay. Thank you, Jan. This is Mike.

16 We do need to wrap up this particular topic and
17 need to get to a nuance on this particular issue that
18 we've been discussing, and that's use of California
19 postconsumer material through third-party agreements.

20 Again, kind of our focus was what documentation
21 do we need to verify compliance through this option. And
22 it would be the same information with the exception that
23 we would need to see a contract or agreement with that
24 third party and identification of what types of packaging
25 and products that third party is putting that California

1 PCM into. In addition, we'd need to see the purchase
2 orders or contracts for the purchase of the California
3 PCM.

4 I think the issues related to this are very
5 similar to what we have been discussing previously. But
6 I'll open it up for further question and comment on this.

7 RECYCLING TECHNOLOGIES MANAGER ORR: Is there
8 anything that we didn't cover as an issue under the
9 previous one that would be of specific merit, given the
10 fact that this would be a third-party agreement rather
11 than within a company?

12 MR. MCANENY: This is Jack Mcaneny.

13 Just a question really. In a situation where you
14 have a product manufacturer purchasing containers from a
15 container purchaser, is this paragraph or this portion of
16 the statute intended to cover that? Is that considered
17 that third-party consumption of California source
18 material? And I guess what was confusing to me is which
19 of these options would that scenario fall out under?

20 RECYCLING TECHNOLOGIES MANAGER ORR: Just a
21 normal transaction between a product manufacturer and a
22 container manufacturer whether that's really what's
23 envisioned by this option here?

24 MR. MCANENY: As the regulations are developed,
25 it would be important to distinguish which one of those

1 and what documentation is required.

2 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR

3 LEAON: I think the example you cite would fall under the
4 existing regulatory structure for complying through
5 recycled content.

6 MR. MCANENY: My point would be if we as Proctor
7 & Gamble asked one of our container manufacturers to
8 provide us a container that had California-sourced PCM in
9 it, that would be a non-regulated container. I guess my
10 point would be I think that point needs to be clarified as
11 the regulation are developed in terms of which paragraphs
12 applies and what the documentation requirements would be.

13 RECYCLING TECHNOLOGIES MANAGER ORR: George.

14 MR. LARSON: If I may comment, the chain of
15 responsibility for the container manufacturer is not
16 broken, if you will. They can either acquire the
17 postconsumer resin themselves to produce the container
18 they sell to you, or they can go to a third party and
19 procure like a plastics broker and procure that quantity
20 of a postconsumer resin to put in the container to make
21 you compliant. And they just have the same
22 responsibilities as you now to validate either through
23 third-party purchase or having done it themselves with
24 invoices, records, documents.

25 MR. MCANENY: Okay.

1 MR. SABOURIN: I think it's important to have a
2 paper trail, particularly, for the third party. Because
3 you want to make sure that the product -- let me go back
4 further. The material has to be used within the
5 United States. It can't be exported from the United
6 States. So I think that it's important to have a paper
7 trail such that you have a trail to the product that's
8 being made by the third party here in the United States.
9 Otherwise, you can do nothing more than have a
10 verification from the broker who then just turns the
11 material around and sells it to China. So I think the
12 paper trail to a finished product is very important, and
13 you have the trail -- you insist on the trail followed to
14 the product --

15 RECYCLING TECHNOLOGIES MANAGER ORR: We're
16 picking up a strange clicking sound on the phone. So
17 anybody is clicking near the computer or the phone, you
18 might want to see if you can figure that one out.

19 STAFF COUNSEL BRANCH: This is Harllee.

20 Does anybody have any particular suggestions as
21 to what the paper trail would look like? I think that's
22 something we'd want to memorialize in the regulations.

23 MR. LARSON: I would say that similar to the
24 existing law where the product manufacturer is held liable
25 subject to penalty under committing perjury that the

1 records they submit they can stand by and validate. I
2 think the same -- the intent is that the same requirement
3 be placed on the container manufacturer. If they're not
4 comfortable that the information is valid, then they are
5 at risk for failing an audit, being found to not be in
6 compliance with the law.

7 So I mean, it falls equally on those two parties
8 as exists for the product manufacturer now and is now in
9 statute -- for the product manufacturer now in statute for
10 the container manufacturer.

11 MR. CLAES: This is Jerry Claes with Graham
12 Packaging.

13 Can I ask a question? In the real world, the
14 only way that I see this option would be of interest to
15 anybody is because they didn't attain the 25 percent
16 content or they did lightweight. And that means that
17 there's no way if they didn't attain it that for some
18 reason they couldn't put 25 percent postconsumer plastic
19 in their bottle. I'm trying to think of a scenario where
20 this is even a viable option other than the one that
21 Parham indicated. If somebody can just give you a simple
22 example on how this could even be an option for somebody,
23 other than what Parham has indicated, I'd sure appreciate
24 it.

25 MR. SABOURIN: This is Dennis. Let me weigh in

1 on that.

2 Let's say somebody has a package made of whatever
3 resin, and they don't have a 25 percent recycled content.
4 But yet, you have someone buying postconsumer bails of PET
5 for use in the Georgia and they buy from that individual
6 credits?

7 MR. CLAES: Now we're getting into credits.

8 MR. SABOURIN: It's a third party.

9 MR. CLAES: I thought the brand owner would have
10 to use this within their products. You're saying they can
11 trade credits, okay. You can drive a mack truck through
12 this one.

13 MR. SABOURIN: That's right.

14 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR
15 LEAON: Yes. This is Mike.

16 I think the point that Dennis raises is valid,
17 because I think under the way the statute is written that
18 it does allow for that sort of trading.

19 MR. SABOURIN: And Dennis again.

20 My concern is you have to be careful that, as I
21 understand the spirit of the law, that this spirit of 1344
22 is not to give a pass card to products that are not
23 otherwise recyclable. And in that case, you frustrate the
24 system because you do nothing to create new recycled
25 products. As we said earlier in our guiding principles,

1 we want to keep in mind to increase the recycling, to
2 increase diversion within the state of California. And we
3 have to make sure that we don't end up frustrating
4 ourselves and doing nothing more than benefiting those
5 products that are already being recycled and doing nothing
6 to get the recycled content in there from the waste
7 stream.

8 RECYCLING TECHNOLOGIES MANAGER ORR: This is Bill
9 Orr.

10 Just going back to the point I previously made
11 about the California recycled material, I think that's one
12 of the issues that this law was seeking to address. The
13 other one is just in terms of we've had a number of
14 container manufacturers in the past that have had issues
15 with technical compatibility and other things like that.
16 And I think part of what we're looking at here is also to
17 take a fresh look at, well, if there were technological
18 reasons why recycled plastic couldn't be incorporated into
19 a product or a package before, this actually provides
20 other options for compliance.

21 The Board in previous certifications has gotten
22 stuck in sort of an endless do loop where if you look at
23 the technological feasibility waiver, what it says is if
24 you can't do it, then pick another compliance option. And
25 after you've exhausted your recycled content and your

1 source reduced option, then you're sort of stuck.

2 So what this new approach would do is provide
3 flexibility for compliance for manufacturers that
4 previously were challenged with having the ability to
5 comply with the law. So I think that's another thing
6 that's probably worth mentioning.

7 MR. SABOURIN: I think as long as we don't
8 confuse technical feasibility with the packaging
9 sustainability. I think we have to think down that road.

10 MR. O'GRADY: Bill O'Grady, Talco Plastics.

11 One final comment relative to clarification. I
12 just want to understand that use of postconsumer material
13 generated in California implies it can be either
14 postconsumer scrap, flake, or pellet exported to other
15 parts of the country or whatever to produce other plastic
16 products or packaging; correct?

17 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR

18 LEAON: Yes. That's correct.

19 MR. O'GRADY: Okay.

20 MR. YEDIDSION: Is that done by statute?

21 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR

22 LEAON: Yes.

23 RECYCLING TECHNOLOGIES MANAGER ORR:

24 Postconsumer, yeah.

25 MR. YEDIDSION: No. How far down the chain it's

1 going in terms of processing.

2 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR

3 LEAON: No. The statute uses language of postconsumer
4 material. It doesn't address whether it's flake or pellet
5 or --

6 MR. O'GRADY: Postconsumer scrap could be
7 exported to -- it's generated in California, could be
8 exported to China. And then China could use this material
9 in the production of plastic products imported back to
10 North America and get credit for content, which is what --

11 MR. YEDIDSION: Which is what Dennis was brining
12 up as well.

13 MR. O'GRADY: I want to make sure that is what is
14 defined in the statute.

15 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR

16 LEAON: Well, the statute doesn't get, you know, specific
17 in regards to examples. It allows for the use of
18 California postconsumer material and other plastic
19 products or packaging. Documenting the scenario that you
20 just laid out I think would be definitely a challenge.

21 George.

22 MR. LARSON: With advanced request of legal
23 assistance after I'm done, it was never the intent for
24 this to promote business activities in China. The
25 language states "in or out of the state of California."

1 If there's need for clarification, perhaps in
2 opportunities that currently exist in statute, we can
3 clarify that point. But it raises to me is there a legal
4 issue about saying it can only be within the
5 United States. I don't know.

6 It seems to be approaching some type of
7 international law that might -- but the intent is if you
8 take the per capita population -- let's use this as the
9 measuring stick, and I don't know it's scientifically
10 accurate. But if we have 12 percent of the population of
11 the nation, and there's correlation between population and
12 consumption of products, this law requires that the other
13 88 percent of the people in the United States use
14 California sourced postconsumer resin anywhere to make
15 products that comply with our law. That's a big draw and
16 a big positive boost for demand for California-sourced
17 postconsumer resin.

18 The gentleman -- I sorry. I didn't know if it
19 was Bill O'Grady or not, but the China syndrome is
20 something that underlies or overarches, whichever you'd
21 like, this whole issue of trying to promote increased
22 diversion of plastics in California. So Harllee, can we
23 restrict --

24 MR. O'GRADY: George, this is Bill O'Grady.

25 I would agree with you maybe it needs to be

1 addressed from a legal counsel standpoint.

2 STAFF COUNSEL BRANCH: It needs to be addressed
3 from a statutory standpoint, not regulations. In this
4 rulemaking, we're possibly not authorized -- and I don't
5 know if it would be wise to start getting into export
6 restrictions, et cetera.

7 BOARD ADVISOR PECK: This is Chris Peck. But
8 Harllee, it seems to me if we were to specify specific
9 documentation that would be required to document a
10 transaction like that, that that could be done in a way
11 and it would leave product manufacturers and container
12 manufacturers in the position of needing to be sure they
13 could provide that documentation through an export market
14 which might be pretty unlikely. So we could sort of de
15 facto be, you know, encouraging the use of the material in
16 the U.S. as opposed --

17 STAFF COUNSEL BRANCH: Through documentation
18 requirements.

19 BOARD ADVISOR PECK: Which we could do by
20 regulation.

21 STAFF COUNSEL BRANCH: I think when you start
22 getting into an outright ban --

23 BOARD ADVISOR PECK: I agree. Even interstate
24 stuff, we can't set up requirements for people out of
25 state that we don't for in state. So extending that to

1 the international trade community, I'm thinking if there's
2 other ways we could --

3 MR. YEDIDSION: On the question -- this is Parham
4 Yedidsion.

5 I agree with you there isn't something you can do
6 in terms of an outright ban. It wouldn't be proper
7 either.

8 But would it not be possible to approach it a
9 different way where we would expand the definition of
10 postconsumer recycled material to incorporate some sort of
11 a processing within the state of California prior to
12 exporting it?

13 One of the things that California is trying to
14 accomplish is to create jobs in the state, to create
15 infrastructure within the state. So as opposed to a
16 straight, let's say, sending of plastics to be scrapped,
17 maybe it can come down to a different definition where
18 it's been processed a little bit, whether it be a grind or
19 a shred or pellet or whatever.

20 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR
21 LEAON: Okay.

22 MR. YEDIDSION: You can approach it that way.
23 Because when you're putting cost into it and the export
24 sort of goes away.

25 MR. O'GRADY: Bill O'Grady, Talco Plastics.

1 I was only trying to bring up a point of
2 clarification. The way the statute or what the statute
3 and the language of the statute applies, however, is that
4 it's postconsumer material generated in California in the
5 production of other plastic products or packaging, which
6 means if it includes scrap, flake, and pellet, as the
7 definition, it just needs to be generated in California.
8 It can go -- points north, south, east, west from there.

9 MR. CLAES: This is Jerry Claes with Graham
10 Packaging.

11 As I read the statute, it says purchased and
12 consumed in the state of California.

13 MR. O'GRADY: It says purchased and consumed in
14 the state of California --

15 MR. CLAES: Then China would not --

16 MR. O'GRADY: I don't have that statute in front
17 of me. But if that's what it says, it eliminates half the
18 battle there.

19 MR. CLAES: I think the statute itself says it
20 has to be consumed in the state of California.

21 MR. O'GRADY: Consumed meaning the bottle has to
22 be filled or the product has to be utilized?

23 STAFF COUNSEL BRANCH: Postconsumer material has
24 to be consumed, but the postconsumer material itself has
25 to be generated in the state.

1 MR. CLAES: Purchased and consumed within the
2 state. Postconsumer material has to come from the state
3 of California.

4 STAFF COUNSEL BRANCH: It's irrelevant where it's
5 consumed.

6 MR. CLAES: That's not how I read the statute.

7 STAFF COUNSEL BRANCH: Okay, well --

8 RECYCLING TECHNOLOGIES MANAGER ORR: So we need
9 to clarify that.

10 MR. ALEXANDER: This is Steve Alexander. Can I
11 go back a couple questions earlier people were talking
12 about --

13 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR
14 LEAON: Before we proceed, Steve, I do need to say we need
15 to wrap this up in the next three or four minutes so we
16 can move on to the definition. Okay. Go ahead.

17 MR. ALEXANDER: I've been holding this question
18 for a while, so it might take me longer than four minutes
19 to say it.

20 I guess my concern about the definition of what
21 is technically feasible in terms of this is providing more
22 options. You know, as an organization, we have a
23 technical committee and we have technical forums, and we
24 look at new materials that come from down the pipe that
25 are technologically feasible from a recycling standpoint,

1 from a resin standpoint.

2 I guess my concern, who is the arbiter there in
3 terms of determining what is technologically feasible and
4 then awarding say a variance because something is deemed
5 not to be technically recyclable? Is that outlined in the
6 statute?

7 RECYCLING TECHNOLOGIES MANAGER ORR: This is Bill
8 Orr.

9 Ultimately, it's the Board. I mean, as far as in
10 the past, basically what's happened in certifications is
11 that the companies through their compliance with the
12 certification had to document their efforts to comply
13 using the various compliance options. And in some
14 instances, the Board made a determination that they would
15 not pursue any further compliance actions against that
16 company. By that basically was something that all --
17 basically, the other compliance options had to be
18 exhausted first.

19 MR. ALEXANDER: Okay. Thanks.

20 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR
21 LEAON: Anything else, Steve?

22 MR. ALEXANDER: No. We'll be back at you.

23 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR
24 LEAON: All right. Well, I think that was a useful
25 discussion.

1 We now need to move on to the next conceptual
2 area, which specifically want to talk about definitions in
3 the regulations. And the ones we flagged for discussion
4 today are product manufacturer, rigid plastic packaging
5 container, reusable container, refillable container, and
6 postconsumer material.

7 MR. CLAES: This is Jerry Claes with Graham
8 Packaging.

9 I don't know if you want to add light weighting
10 to that, because this is the becoming a very muddled
11 issue.

12 STAFF COUNSEL BRANCH: Source reduction.

13 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR
14 LEAON: You're referring to source reduction? Yeah, light
15 weighting is not actually a term used in the regulations.
16 But okay.

17 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR
18 LEAON: If you're not speaking, if you're on the phone, if
19 you could mute your phone, that would probably be helpful
20 on our end to eliminate some of the background noise. So
21 again, if you're on the phone, please mute your phone
22 until you have a comment.

23 Let's begin with product manufacturer. Our
24 thought on this definition is that it needs to be more
25 clear that who we're after is the company that is

1 responsible for making packaging decisions and then has
2 control over where the product is being sold. There has
3 been some issues on identifying the product manufacturer
4 for some product lines where you have a brand name on the
5 package that may not actually be the product manufacturer.
6 So I just wanted to open this up for comment on that. So
7 conceptually, I think we need to revise that definition,
8 make it more specific in regard to identifying the product
9 manufacturer and making sure we're getting the company
10 that's making the packaging decision and has control over
11 the product.

12 MR. POLLACK: This is Randy Pollack.

13 I wholeheartedly agree with it, especially having
14 represented retailers many times doing private labeling.
15 Many times they may not know where they're getting those
16 items or where the initial packaging occurred. So they're
17 going through three or four different levels of trying to
18 get that information. But all these retailers will have
19 information as to who distributed to them the item. And
20 so I would wholeheartedly support trying to figure out,
21 for example, if the retailer could provide additional
22 information as to where they purchased that product. That
23 maybe gets up the chain a little bit quicker.

24 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR

25 LEAON: So have the retailer provide information on --

1 MR. POLLACK: Or maybe the distributor.

2 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR

3 LEAON: Okay.

4 STAFF COUNSEL BRANCH: Howard, for the retail --
5 this is Harllee.

6 With the retailers doing their own, you know,
7 private labeling, that's what you're talking about, do
8 they label it, manufactured by retailer?

9 MR. POLLACK: It's usually just manufactured
10 by --

11 STAFF COUNSEL BRANCH: Safeway.

12 MR. POLLACK: Yeah.

13 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR

14 LEAON: So under that particular example, Safeway is not
15 actually exerting any control over the choice of
16 packaging.

17 MR. POLLACK: Right.

18 MR. CLAES: They aren't?

19 MR. POLLACK: Let me alter this. For example, if
20 you have a retailer that may have three private lines that
21 they may have, say, like a dishwashing detergent, they
22 don't have -- it's very difficult for them to go and
23 determine when someone buys them -- they buy something
24 from a distributor to figure out does it have -- has this
25 been source reduced? Does it have 25 percent

1 postconsumer?

2 MR. CLAES: I don't understand why you couldn't
3 just write that in the purchase order, I want my bottle to
4 contain 25 percent postconsumer material.

5 MR. POLLACK: Because under the law, there are
6 different ways to comply with the law. Some of it could
7 be source reduction also.

8 MR. CLAES: Understand.

9 MS. ZETTLEMOYER: This is Amy Zettlemoyer from
10 Wal-Mart.

11 From a retailer's perspective we're buying a
12 product, not a package. So we actually do not specify
13 what we're looking at. And it would completely change the
14 way we have to do business if we provided a packaging
15 speck. So we're moving towards that direction, and we
16 think within the next couple of years we'll have that.
17 But we, and I know a lot other retailers, purchase items.
18 We don't know the level of detail of what makes up our
19 package. Just that it performed and gets through the
20 supply chain.

21 STAFF COUNSEL BRANCH: The problems we have been
22 running into is identifying who the proper responsible
23 party is. And when the Board is involved in identifying
24 various product manufacturers that could be subject to the
25 law, the first thing we're going to see is a product

1 sitting on a shelf saying manufactured by Wal-Mart. And
2 so when we go to, for example, to go and certify Wal-Mart
3 for compliance, or any other company, we commonly get this
4 response that, "Listen, we just ordered the product. We
5 have nothing to do with the packaging. We don't know any
6 of this information."

7 So the question for the Board is how can we
8 possibly enforce this law properly when all of these sort
9 of supply chain issue seem to come up. It's a big issue
10 for us. And we really need your assistance in finding an
11 efficient way to do this. It's caused a big headache for
12 me. I can speak for myself and for staff and probably for
13 the product manufacturers themselves and clients. So the
14 question is, what's the solution?

15 MR. POLLACK: I think maybe one suggestion --
16 this is Randy Pollack -- that may be that a retailer,
17 someone who receives certification, has a certain amount
18 of days to turn over information as to where they are
19 purchasing those products from. I mean, maybe that's one
20 step to give you the ability to take the next step of
21 notifying them or saying you need to certify.

22 MS. ZETTLEMOYER: This is Amy Zettlemoyer from
23 Wal-Mart.

24 We can share with you the items that fall into --
25 to the best of our knowledge, the items that fall into the

1 RPPC and who we're purchasing it from, going back to them,
2 and then they need to go back to their supplier. So it's
3 at least three people removed. To get how they're being
4 compliant is much more difficult. So it's fairly -- I
5 don't want to say fairly simple, but it's easier to
6 provide what items we're purchasing in RPPC and who we're
7 purchasing them from. But to have to go all the way back
8 is probably several months' worth of work.

9 MR. POLLACK: This is Randy Pollack again.

10 I think also what most retailers will find is
11 many of the products that we're purchasing from a major
12 manufacturer, whether it's -- that they do private label.

13 MR. LARSON: George Larson.

14 I can say that's true on behalf of at least my
15 client, Illinois Tool Works, who has 650 companies under a
16 corporate umbrella called Illinois Tool Works. And every
17 one of them are separate. It's very horizontal. It's not
18 a vertical organization. In Wal-Mart, if you go to the
19 portion of their sales shelves that sells screws, snaps,
20 fasteners, I'll assure you that at least 75 if not 90
21 percent of everything on that counter was produced by
22 Illinois Tool Works. And it's going to be under five or
23 more different labels who are, in fact, the manufacturer
24 as this law is interpreted.

25 So I mean, I wish I could come up with the answer

1 that you're struggling with for a couple of years, because
2 we've been struggling with it for decade and a half. So
3 there's a fundamental flaw here in the ability for a
4 product sales company like Wal-Mart or anyone else to go
5 back to two, three, four, maybe even more steps to find
6 out -- or how far do you want to go. If a custom label is
7 ABC Screw Company, and ABC Screw Company doesn't make
8 screws, they just package them, all from whom they bought
9 them, are they the product manufacturer? I think under
10 the current law, they are. Because their name is on that
11 package. But it's not an accurate -- it's not a system
12 that lends to accurately tracking who you're after.

13 MR. CLAES: This is Jerry Claes with Graham
14 Packaging.

15 Let me just throw something out. I don't know if
16 this is feasible or not. But an easy way to determine who
17 manufacturers the package in 75 percent of the cases is
18 look on the bottom and you'll see the manufacturer of the
19 container has their logo embossed on the bottom. Now,
20 that isn't true in 100 percent of the cases. And maybe
21 this is where you have to go. Is there some type of ID
22 system that the bottle manufacturer puts on the bottom of
23 the container that there's a central database someplace
24 that is easy to find out who manufactured that container.
25 Again, 75 percent of cases you can do it. There's 25

1 percent that don't. And for the most part, it's really
2 the major brand owners who don't know -- who don't want
3 the container manufacturer's name on the package, because
4 they don't want the competition to know who's making that
5 container.

6 MR. LARSON: Or it's an imported product from
7 another nation over whom we have no control.

8 MR. CLAES: Yep. It's not simple. I understand.

9 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR

10 LEAON: Okay. Well, this is a definition that I think
11 really have to give some consideration and thought to,
12 because the answer here is not readily apparent. We can
13 come back to this one, if we want to have additional
14 discussion on it.

15 In the interest of time, I think we better keep
16 moving here. The next definition is rigid plastic
17 packaging container. There are several issues with this
18 definition that we want to bring up today. A couple of
19 them relate to what we consider to be equity issues
20 regarding the regulated community where you have, say, a
21 bucket that has a metal handle which is currently under
22 the regulation, not an RPPC. Where you have the same
23 bucket with the plastic handle, that bucket is an RPPC.
24 We also have issues regarding capable multiple reclosure.
25 We might have a heat seal package that's not capable of

1 being reclosed. That's not an RPPC. But you have a
2 similar clamshell that is capable of closure, and that
3 particular package is an RPPC. So we think there's some
4 fairness issues amongst the regulated community in that
5 regard.

6 Also another issue is determining volumetric
7 capacity. What we're proposing to do here is go by the
8 label volume. Or if it's not labeled, the volumetric
9 capacity of the container.

10 The third issue is part of the product and
11 durable cases and wanted to take a fresh look at the
12 regulations. We have some concerns whether that concept
13 or idea is consistent with the guidelines that we talked
14 about earlier.

15 So with that, I think I'll open it up for comment
16 and question.

17 MR. POLLACK: Randy Pollack.

18 I think this is the crux of the whole law right
19 here, is to what is an RPPC. I think that we don't know
20 what the definition is of a rigid versus inflexible. I
21 don't know if we're sure whether clamshells are included
22 or not. And I think that if we look at the whole stream
23 of what has occurred in the past by looking at
24 certification, I think it's very clear that you are going
25 to find a huge area out there that there is no way that

1 they can comply with this law if you say that we're going
2 to include, say, recloseable items. Let's just take one
3 example, like a headset that you will buy at some computer
4 store or retailer for your ear for a phone. It comes in a
5 plastic thing, is it flexible or not? I think the
6 difficult determination like that is that that cannot be
7 source reduced in most instances. And from what I
8 understand, it's very hard to have 25 percent postconsumer
9 resin.

10 So right there, you have an area -- huge area
11 that probably can't comply with this law the way -- and
12 I'm not saying way, because there's never been a
13 definition of what an RPPC is by the Board. And so I
14 think that that's what we have to determine. How do we go
15 from here in addressing this whole definition of what an
16 RPPC is. And I think it's important to go back to looking
17 at when the regulations initially came into place. I
18 think that there's probably -- I'm not sure if you have
19 the records here. I think there's probably discussion
20 back there what should be included, what shouldn't be
21 included. And I think a re-evaluation of that should also
22 occur.

23 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR
24 LEAON: We do have those records. So we can go back and
25 look at that.

1 MR. POLLACK: Randy Pollack again.

2 Up until this point, under the regulations, the
3 Board has the ability to review a package to determine
4 whether it's an RPPC and that it falls under the law. And
5 to date, I don't believe that any package has been
6 presented to the Board for that determination.

7 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR
8 LEAON: Can you restate that, Randy? I didn't quite track
9 that.

10 MR. POLLACK: Under the regulations, the Board
11 has the ability to determine whether a certain container
12 is an RPPC by looking at other containers that clearly
13 fall under the law or not. And to date, I don't believe
14 or I don't remember the Board actually having a hearing
15 where they have taken packaging and have made that
16 determination.

17 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR
18 LEAON: Yeah. That's correct. The Board's only had I
19 believe one hearing, but that wasn't necessarily a
20 determination on the container itself, if I recall
21 correctly.

22 We do get into a discussion of certification
23 process, which I think your comments get into that area.
24 And we'll talk about that more after the break.

25 Are there any other comments from people on the

1 phone about this definition?

2 MR. YEDIDSION: Parham Yedidsion, Envision
3 Plastics.

4 Michael, could you mention again what is your
5 understanding in regards to the container size in regards
6 to the volume or filling weight? Can you expand on that
7 as to how you're going to go about that?

8 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR
9 LEAON: Yeah. Statute defines an RPPC of having a volume
10 between eight fluid ounces and five gallons. And we think
11 that simplist way for determining that is just to go by
12 the labeled volume on the package. If the volume isn't
13 included in the packaging label, we would then default to
14 volumetric measurement of the fluid capacity of that
15 container. That does not mean the container has to be
16 water tight, but we're looking at the air space within the
17 container.

18 MR. YEDIDSION: One just overall comment. The
19 spirit of this thing to begin with if I'm not mistaken for
20 going to five gallons was to include five gallon
21 containers, let's say paint buckets or things like that,
22 things that are generally known as a five gallon
23 container. The loophole has been that, well, technically
24 our containers can fit 5.01 or 5-plus. How can we address
25 the definition to go back to what the spirit of this whole

1 thing was supposed to be?

2 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR

3 LEAON: I think that's a good question, Parham. And
4 that's something we can take under consideration during
5 this process. Your point being that a five-gallon pale or
6 five gallons of paint in a pale that's 5.1 or 5.2 gallons,
7 you feel that should be regulated even though the
8 volumetric capacity of that container is slightly over
9 five gallons.

10 MR. YEDIDSION: I feel the spirit was that's why
11 it went to five gallons. This is exactly why that was
12 mentioned. That was the spirit. But it hasn't really
13 been complied with because of the ability to come and say,
14 hey, our container fits 5.2., 5.1.

15 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR

16 LEAON: Okay. I think we have to give some consideration
17 as to whether that's a statutory change. That might be a
18 statutory fix. So, Jan, if you could capture that on the
19 parking lot.

20 MR. O'GRADY: This is Bill O'Grady, Talco
21 Plastics.

22 The metal handle as opposed to the plastic handle
23 falls in the same category then.

24 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR

25 LEAON: Though that one is a regulatory issue.

1 MR. YEDIDSION: If that could be taken a look at
2 as well.

3 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR
4 LEAON: Yes.

5 MR. SABOURIN: I think the same thing goes for
6 clamshells. I think they're all in or all out. It has to
7 be either all in or all out. I think the receiveability
8 issue just adds confusion to the regulated community.

9 STAFF COUNSEL BRANCH: Some of the provisions in
10 the regulation sort of narrowed the scope of the statutory
11 definition. And I think we want to start with possibly
12 taking those provisions out and getting back closer to
13 what the statutory language says. All this stuff about
14 capable of multiple reclosure, composed entirely of
15 plastic, et cetera, are regulatory terms that were added
16 when we originally passed these regs. I think we want to
17 start with possibly taking those provisions out and
18 rethinking this whole thing.

19 MR. YEDIDSION: Jan, Howard, you guys worked on
20 this quite a bit I think year and a half, two years ago
21 year ago.

22 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR
23 LEAON: Yes, we did.

24 MR. YEDIDSION: I think at that time there were a
25 whole host of different comments that was given about this

1 issue and also all the other limitations. Maybe we can
2 incorporate some of those.

3 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR

4 LEAON: We can go back and look at the comments and
5 responses from that earlier process as well.

6 MR. POLLACK: This is Randy Pollack.

7 I think initially why they put in the multiple
8 reclosures is they were concerned back at that time the
9 scope of the coverage of what would be reported under this
10 bill. I think one of the things you have to take into
11 consideration if you look at everything that is heat
12 sealed out there right now, you're talking about a
13 gigantic universe. And right now, I think that the Board
14 and staff has been struggling just keeping up the speed
15 with the information that we're obtaining right now from
16 companies, that by expanding it, you are going to get into
17 an area where almost everything out there is sealed, for
18 example. You know, right or wrong, how you want to
19 approach it. But I think you are going to open up a
20 workload here that I don't think anybody would be able to
21 cover.

22 MR. YEDIDSION: You're right. It's too bad we
23 don't get to talk about this issue once every 15 or 20
24 years I think.

25 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR

1 LEAON: Okay. I think we better move on to the next set
2 of definitions. And this pertains to reusable and
3 refillable containers. Both of these options require that
4 the product manufacturer demonstrate that the particular
5 container is reused or refilled at least five times to
6 qualify under this compliance option.

7 In looking at the regulations, I know there is
8 confusion out there about these two definitions. So I
9 think we need to look at a way of making it more clear.
10 But what it allows for reusable container, this is a
11 container that is refilled by the customer using a
12 replacement product sold by the manufacturer for the
13 purpose of replenishing that reusable container with the
14 original product it contained. An example here is a
15 laundry detergent that sells a concentrated replacement
16 product that can then be used to refill the original
17 container or water's added and that replenishes that
18 original container.

19 On the refill side, what this allows is for a
20 container to be returned to the manufacturer by the
21 customer, and then the manufacturer refills that container
22 with the same product. Probably the best example here is
23 the old coke bottles where those bottles were returned and
24 refilled by the manufacturer. So in regard to these two
25 definitions, are there any suggestions on how we can make

1 this more clear? Though I think when you look at the
2 regulations in detail and closely, I think the existing
3 language does spell this out, but there does seem to be a
4 lot of confusion on those two.

5 STAFF COUNSEL BRANCH: This is Harllee.

6 I want to add the factual issue that we're up
7 against especially with reusable container. What we've
8 been running into in certifications is product
9 manufacturers claiming that certain RPPCs are reusable.
10 And we get into this sort of what-if scenario, this
11 factual determination of, well, looking at this product,
12 yeah, you can see that a consumer could probably reuse
13 this to store CDs, for example, on a CD container or
14 spindle.

15 I know speaking at least for myself, I'd like to
16 move away from that sort of a definition where we get into
17 these sort of indeterminate factual problems and get to
18 something a little more certain. Otherwise, we're going
19 to run into certifying 75 or 100 companies every
20 certification where we get into a myriad of these little
21 factual determinations that are just going to be
22 unsolvable.

23 MR. CLAES: This is Jerry Claes.

24 Why don't you just put the onus on the brand
25 owner if they can demonstrate they have a program that is

1 in place that allows this container to be refilled or
2 reused within their system, to me, they have it. It's
3 achieved the spirit of the law. I mean, why argue whether
4 or not a spindle for CDs could be reused by them. To me,
5 that's not what this is all about. But, in fact, the
6 brand owner has actually taken steps to ensure it's
7 reused, he's accomplished what you wanted him to do.

8 MR. POLLACK: This is Randy Pollack.

9 I can just provide, you know, a couple of
10 examples here. Reusable, for example, I had one client
11 one time that would sell a box with beads coming in it.
12 Beads like craft for craft items. Because what they want
13 to do is people to go back to the store and buy something
14 in plastic, put their beads back into the container they
15 had bought before. So that was clearly a reusable by the
16 consumer.

17 I think what Harllee was talking about I think
18 that goes to the definition of what constitutes a product
19 and the difference between what's product and packaging.
20 I would go to the CD spindle that there will be from maybe
21 some of the staff that a spindle is packaging. And I
22 think a lot of us would assert, no, that's a product.
23 That is part of the item and is therefore not under the
24 RPPC.

25 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR

1 LEAON: Okay.

2 STAFF COUNSEL BRANCH: The solution I'd like to
3 get at is get rid of that debate and write our way around
4 it, because I don't see a solution.

5 MR. CLAES: Is this a big issue, or is this
6 really just --

7 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR

8 LEAON: It is an issue.

9 STAFF COUNSEL BRANCH: Potentially a big issue.

10 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR

11 LEAON: It has been an issue in the certifications and it
12 does come up. And as Harllee was explaining, for the most
13 part, it's applying these compliance options in the
14 incorrect way where a consumer or product manufacturer
15 argues that, well, our particular package can be reused by
16 the consumer in the hope to store various sundry items.
17 But what the law requires is that the product manufacturer
18 offer a replacement product to either refill that
19 container or the manufacturer does the refilling or the
20 replacement product is sold to the customer and the
21 customer does the refilling of the container.

22 STAFF COUNSEL BRANCH: I think that's the
23 direction we'd like to move in, is defining reusable as a
24 container where there's replacement product sold to go
25 into that container. We can hopefully get around some of

1 these weird factual questions.

2 MR. LARSON: If I may, Michael, George Larson.

3 Just kind of included in your discussion just
4 moments ago the reusable and refillable concept in the
5 same description. Whereas, in statute, they are very
6 clearly defined as different types of containers.

7 My question is, at least my understanding and my
8 experience dictates, that this is not a huge universe as a
9 percentage of all RPPCs that fall under this reusable,
10 refillable container thing in sheer numbers of what you
11 deal with out there. And you're stuck, if you will, in
12 the statute that it's in there. I would submit that it's
13 something for the parking lot, because it's almost
14 irrelevant to the --

15 STAFF COUNSEL BRANCH: I agree. It's potentially
16 a small universe of actual packaging. The problem is it's
17 become very large in our universe in terms of trying to
18 measure compliance.

19 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR
20 LEAON: When it does come up, we have found that we spent
21 a lot of time on the issue.

22 MR. LARSON: Spent a lot of time for a little
23 return on your investment. So get rid of it.

24 STAFF COUNSEL BRANCH: We can't get rid of it.

25 MR. POLLACK: I think one of the big issues is

1 with the five-gallon buckets and what do many people -- do
2 those really get disposed, or do most people keep them
3 around their homes for mopping or paints or keeping other
4 supplies in it. I think that's probably the biggest area
5 how --

6 STAFF COUNSEL BRANCH: How from an enforcement
7 perspective are you supposed to determine that?

8 RECYCLING TECHNOLOGIES MANAGER ORR: Given the
9 statute right now it is a reusable item. I probably reuse
10 them.

11 MR. YEDIDSION: I think part of it is the intent
12 of the manufacturer to sell a product as well.

13 RECYCLING TECHNOLOGIES MANAGER ORR: That's the
14 thing, there's no original product. There's no
15 replacement product for that.

16 STAFF COUNSEL BRANCH: We don't want to get in a
17 direction where it comes down to the intention. The
18 manufacturer intends that the consumer reuses this and
19 puts a stamp on it saying, "please reuse this." And then
20 they say it's a reusable container. I mean, that's just a
21 gigantic loophole I want to get away from.

22 MR. MCANENY: This is Jack Mcaneny.

23 As I look at the definitions that's in the
24 regulations right now, it appears to be fairly explicit.
25 It says it's reused by consumers five times to store the

1 original product. And the formulas you get later on are
2 geared off that. So I guess I don't understand how it
3 could be more specific than that. I mean, it seems to be
4 pretty clear. So I guess I'm struggling a little bit.

5 STAFF COUNSEL BRANCH: It seems to be clear. But
6 in application it gets a little fuzzy. I mean, we know
7 what the original product is. We know what the package
8 is. What we don't know is, you know, what are the habits
9 of the consumer who gets this product. Are they actually
10 putting it back in the package? Are they tossing the
11 package away and just keeping the product? That's
12 where -- do you see what I'm saying?

13 MR. LARSON: Probably recycling it.

14 MR. MCANENY: And that's fine.

15 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR
16 LEAON: Okay. Let's move on to definition of postconsumer
17 material. Again, this is another definition or I think
18 the existing regulatory language is adding to some
19 confusion amongst regulated product manufacturers, and
20 we're proposing simply to go with the statutory
21 definition. We feel the statutory definition makes
22 abundantly clear that post industrial material is not
23 counted towards the recycle or content compliance option.
24 Our feeling is that we should just go with the statutory
25 definition.

1 MR. LARSON: George Larson.

2 I'd like to pose a question or an issue. As
3 you're aware, Oregon has a similar law, and I've just gone
4 through an exercise of trying to figure out their law and
5 compare it to our law, because some of my clients sell
6 products in both states and try to figure out which end is
7 up. And Mr. Spendilow who gave such a thorough briefing
8 to you at your meeting of the interested parties clarified
9 in the Oregon law no post industrial scrap could be
10 counted towards their law.

11 It's my understanding through the discussions
12 I've had here in California that post industrial scrap
13 that would otherwise be directed to disposal would be
14 eligible as a recycled material. But you know, eight
15 companies picking up their stamping residuals off the
16 floor from making round widgets, let's say, and regrinding
17 it, putting it back in to make more widgets, that is not
18 creditable as diversion. But if those are swept off the
19 floor and put in a 55-gallon drum let's say and would
20 otherwise be going to a landfill, but Bill O'Grady comes
21 in and says, "I give you whatever for that," and he takes
22 them and puts them into the marketplace as they would
23 otherwise have been disposed, and that is creditable
24 towards your percentage of recycle. I'm posing that to
25 ask you if I have a correct understanding of the

1 California law.

2 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR

3 LEAON: Yes. I believe let's pull out the regulation.

4 But I believe that is accurate.

5 RECYCLING TECHNOLOGIES MANAGER ORR: As far as

6 the regulation is concerned, yes.

7 MR. LARSON: Read the section number.

8 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR

9 LEAON: It's California Code of Regulations Section

10 17943(a), paragraph 23, which is the definition for

11 postconsumer material. And it does go on to say that,

12 "Internally generated scrap that has been commonly

13 disposed may be considered postconsumer material if it's

14 later used in a process other than the original

15 manufacturing and fabrication process." So, yeah, under

16 that example it would qualify.

17 MR. LARSON: Thank you.

18 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR

19 LEAON: So your recommendation, George, is to keep that

20 provision as part of the definition?

21 MR. LARSON: Yes.

22 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR

23 LEAON: Okay. Any other comments or suggestions regarding

24 this definition?

25 We did have a suggestion that we also look at the

1 definition of source reduction. So let's take some time
2 to look at that. If we get through that definition, we'll
3 take a break.

4 MR. POLLACK: This is Randy Pollack.

5 I think this is another critical issue in looking
6 at the regulations. Because a lot of people that I
7 represent, they may introduce a new product line, but it's
8 very difficult for them to demonstrate a ten percent
9 reduction. And it's trying to determine how do we get
10 those container manufacturers and those retailers who are
11 trying to comply with this, is there a way to demonstrate
12 that they are in compliance with the law because they are
13 introducing a packaging at the lightest weight possible
14 when they introduce their new item as opposed to the 25
15 percent PCM. So I'm not quite sure how to address it, but
16 I think it's an issue we all need to look at.

17 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR

18 LEAON: Okay. The way we had been dealing with that issue
19 is allowing the product manufacturer to compare that
20 package holding that product against similar products held
21 in other packaging. And if that container was lighter
22 than that other packaging, we would allow that product
23 manufacturer to claim the source reduction.

24 RECYCLING TECHNOLOGIES MANAGER ORR: Is that
25 basically benchmarks for certain packaging types?

1 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR

2 LEAON: It was more case by case.

3 MR. POLLACK: This is Randy Pollack.

4 That led to a lot of difficulty, because you
5 could have a range of 50 products on the shelves and
6 you're trying to figure out how about in this area they
7 have all source reduced down to a certain weight and
8 you're within that range, but you can't demonstrate a ten
9 percent reduction. So therefore, you're not in compliance
10 with the law.

11 MR. LARSON: George Larson.

12 I think it points back to the dilemma being
13 struck with the original legislation, the original statute
14 basis, the original compliance on a container introduced
15 between January 1, 1990, and December 31, 1994. There
16 isn't -- I would venture a guess, there isn't a container
17 on the shelf today that was on the shelf in 1994 for 1995
18 compliance. They're all moving targets. It's just
19 technology. It's in the best interest of a product
20 manufacturer to minimize their cost and the volume of
21 packaging for their products because they're all related
22 to profit. And you know, it's this archaic language from
23 the 1990 law that makes I believe your life that much more
24 difficult.

25 RECYCLING TECHNOLOGIES MANAGER ORR: Sounds like

1 we need to potentially revisit source reduction and the
2 base line in the statute.

3 MR. YEDIDSION: Is that part of the regs?

4 RECYCLING TECHNOLOGIES MANAGER ORR: It's going
5 in the parking lot.

6 MR. CLAES: This is Jerry Claes.

7 One of the key issues that was on my mind --
8 Jack, you might want to comment on this -- is all these
9 concentrates are coming out in the detergent business, and
10 does that qualify for light weighting. In other words,
11 P&G used to make 100 ounce detergent bottle. Now it's a
12 50 ounce bottle, which is twice as concentrated. Is that
13 light weighted?

14 MR. MCANENY: It goes back to the --

15 MR. CLAES: Sorry. Source reduction.

16 MR. MCANENY: They're per use. My read on that
17 would be there are per use provisions within that
18 definition that would allow for that to be considered.

19 MR. CLAES: Maybe that is the way to approach it.
20 But something you need to think about. That's all.

21 MR. MCANENY: This is Jack Mcaneny.

22 Just as a general comment -- and I don't know if
23 the statute would allow this. But particular to source
24 reduced container definition, there seems to be an awful
25 lot of what I call implementation language that makes

1 working your way through all the references to early dates
2 that really aren't relevant anymore. If there's a way to
3 just get rid of that language, it would help folks --

4 STAFF COUNSEL BRANCH: My intent is to go through
5 with a machete and --

6 MR. MCANENY: I think that would be helpful for
7 folks in the regulated community.

8 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR

9 LEAON: I do think this is an issue where our guiding
10 principles do come into play. And I understand the desire
11 to get credit for introducing containers into the
12 marketplace that are at the lightest weight as possible.

13 The question I would have in that regard is how
14 does that contribute to recycling markets, which is
15 another important intent of the law is to promote
16 recycling. So if we allow containers that are introduced
17 to take the source reduction credit based on the fact that
18 manufacturers want reduced material cost and want the
19 container to be as light as possible, should we also not
20 be taking into account that if that container had recycled
21 content, we're also supporting the markets for
22 postconsumer material as well?

23 STAFF COUNSEL BRANCH: I was going to address and
24 just put a question out there, because Randy mentioned,
25 okay, if my client puts a product out, the product

1 container has been source reduced as much as it possibly
2 can. So as I understood his point, shouldn't we then be
3 in compliance?

4 The way the statute is written you have all these
5 different options, one or two or three or four, et cetera.
6 So you can't make two. Can you then go to your other
7 options? And I'm anticipating the next comment you're
8 going to make is, well, then we can't put the postconsumer
9 material in it either. So then you have this credit
10 trading system. You put it in other products that you can
11 put it into.

12 MR. POLLACK: Randy Pollack.

13 You know, the easiest way for my client to
14 comply, you know, sadly is to come out with a heavier
15 bottle and then a year later reduce it. Because there are
16 limitations to having recycled content in certain bottles.

17 And I know that all different products can be
18 made different ways. Some may be a clarity issue. I'm
19 not sure all the other reasons why someone might not want
20 to put 25 percent. But there are other issues out there.
21 I think that what's there is if there are options for you
22 to comply with, but now what's happening, well, okay, you
23 may be number one, but we want to do number two. And I
24 think companies are going to be a little bit hesitant
25 about that.

1 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR

2 LEAON: Okay. And that particular example, Randy, is
3 something we definitely want to avoid.

4 MR. POLLACK: And I can tell you, people are --
5 companies, believe it or not, are looking saying maybe
6 I'll slap some cardboard on the back of an item. Because
7 that will reduce our costs and we won't have to go through
8 this being subject to fines. If that's what we have to
9 do, if we have to add weight by putting a piece of paper
10 around it, we don't want to because we don't want to go
11 that direction. But that's some of -- and I'm not saying
12 that every company is sitting there making that decision,
13 but that comes into some of their thinking in the future
14 how do they address this issue.

15 MR. LARSON: It also -- George Larson -- raises
16 the issue of product packaging substitution. The
17 description Randy's point is you add a little bit of
18 cardboard and you get out of the law. But there's also
19 instances where the entire package was changed from a
20 plastic to paper, let's say, and they're not regulated. I
21 don't know that the Board has made any effort to try to
22 determine what has been the impact of this law on
23 packaging material substitution. Because I don't think
24 that that achieves one of the overall goals of the Board
25 of reducing disposal, increasing recycling, because it

1 falls out of this.

2 STAFF COUNSEL BRANCH: Can I just confront the
3 elephant in the room, which is we're doing the best we can
4 with the machine we've been given.

5 MR. LARSON: Certainly not meant to criticize
6 your staff, because I was here once. I know what it's
7 like.

8 RECYCLING TECHNOLOGIES MANAGER ORR: Just going
9 there anecdotally -- this is Bill Orr. My guess is that
10 on the edges, some of the things like heat sealing have
11 had a lot of unintended consequences. But in terms of
12 products or material substitutions away from plastics, I
13 think it's going the other way.

14 So you know, I think within plastic we're seeing
15 things go on. But in terms of this driving people to use
16 paper or metal packaging, I don't think that's happening.
17 It would be more on the edges, a handle, the heat sealing,
18 those kind of things.

19 MR. POLLACK: This is Randy Pollack.

20 Since we're still on the source reduction. I
21 think one of the issues we have here, if someone is
22 manufacturing one packaging and some resin then wants to
23 switch over to another one, but in that area there's not a
24 large recycling stream set up yet, they're prohibited from
25 gaining any sort of benefit from that. So the question is

1 is how do you establish a recycling stream if you're being
2 dinged for switching over to that plastic? And I think
3 that's an issue that we'd like to see addressed. That you
4 may be reducing the weight, but you aren't going to get
5 credit, because you're switching the resin where there's
6 not a recycling stream built up to whatever level it's
7 supposed to be at.

8 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR

9 LEAON: I think we're running about 15 minutes late, so
10 why don't we reconvene. Is a ten-minute break okay or do
11 we need 15? Ten is fine. Let's reconvene. I have one
12 after. So eleven after.

13 (Thereupon a recess was taken.)

14 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR

15 LEAON: Okay. This is Mike. We'll go ahead and move
16 on to our next conceptual area. This relates to
17 certification process improvements. And most of what
18 we'll be talking about here are not currently addressed in
19 the regulation. And there has been a fair amount of
20 question and some confusion on the part of the regulated
21 community about the certification process. So we're
22 considering what do we need to include in the regulations
23 regarding process. And we've identified a number of
24 issues that we want to talk about in that regard. This
25 includes identification of product manufacturers. And

1 this is typically done by staff through identifying
2 products that are on the store shelf or finding products
3 that are offered for sale in California over the Internet.

4 In addition, whether we should include
5 notification of companies once we've identified they're
6 selling regulated product into California, immediately
7 providing them with notice that you're subject to this
8 law.

9 In addition, whether the regulations should speak
10 to the selection process for deciding which product
11 manufacturers are going to be included in any one
12 certification. And subsequent to that, how much advance
13 notice do the companies need that they're going to be
14 required to certify for a reporting period.

15 And then associated with the certification
16 process, the question about whether there should be a
17 container determination appeals process when there's a
18 dispute between staff and the product manufacturer over
19 whether their packaging is regulated.

20 And finally, factors for calculating penalties.

21 So before I delve into each of those areas, are
22 there any other suggestions of issues that we should be
23 discussing under process?

24 MR. LARSON: Just if I may -- George Larson.

25 Can you clarify that the question of equity be

1 addressed under one of these sub-topics. And I mean
2 specifically 75 companies out of 40,000 are selected for
3 certification and the rest don't.

4 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR

5 LEAON: Okay. I will be sure to cover that. I'm not sure
6 under which particular topic, but we will get to that.

7 Okay. Let's begin with identification of product
8 manufacturers. As I said, regulated product manufacturers
9 typically are identified by finding their product on the
10 store shelf or their products are offered for sale in
11 California over the Internet. In addition, in past
12 certifications, we have also worked with trade
13 associations when we want to certify the tire industry
14 segment. And this probably relates to the equity issue
15 that you brought up, George. And working through those
16 trade associations to identify what are the university of
17 companies, for example, say under janitorial supply that
18 we should be certifying.

19 So are there any comments or suggestions about
20 procedures for identifying new product manufacturers? And
21 I guess also the question is, does that need to be in the
22 regulation? I'm thinking this particular process doesn't
23 need to be, but certainly open to comment on that.

24 MR. LARSON: Since you're looking at me --

25 MR. POLLACK: Randy Pollack.

1 I would just say I think it still comes down to
2 what is the determination of what an RPPC is. Because I
3 think what we saw in this last certification that there
4 are probably 30 to 40 companies or 20 to 40 companies in
5 there that probably had difficulty of determining whether
6 or not they have anything that's an RPPC. And so I think
7 that the clarity for the staff in trying to follow up with
8 them and trying to understand whether or not that's an
9 RPPC or even under this law has been a challenge this time
10 around. I think it's probably making sure what you've
11 done in the past targeting those areas that you know
12 specifically are RPPCs. And it's clear under the law.

13 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR
14 LEAON: So let me see if I understand correctly. So,
15 Randy, you're suggesting that a good approach would be to
16 use that past practice working with a particular industry?

17 MR. POLLACK: Uh-huh.

18 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR
19 LEAON: Okay. George, did you have any --

20 MR. LARSON: George Larson.

21 I would just suggest that the Board's outreach to
22 the regulated community could be broadened. And I wish I
23 had a suggestion on how to do that, but I know in the past
24 it's been running an ad in Plastic News. I think it has
25 to be much broader. Perhaps some other people might have

1 some suggestions about trade associations certainly. But
2 then you get into the international issue of how do you
3 contact people that sell products in California that come
4 from other places.

5 MR. YEDIDSION: I have a question, actually.
6 Right now if a manufacturer wants to sell a product in the
7 state of California, is there any kind of registration?

8 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR

9 LEAON: No.

10 MR. YEDIDSION: I'm not talking about RPPC. Just
11 in general.

12 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR

13 LEAON: Well --

14 STAFF COUNSEL BRANCH: I don't know.

15 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR

16 LEAON: Through trade, what is it? What is the commerce?
17 I believe they do have to register as the name of the
18 business or doing business as --

19 STAFF COUNSEL BRANCH: That's if you're filing as
20 a corporation, California corporation.

21 RECYCLING TECHNOLOGIES MANAGER ORR: The RPPC law
22 is not a self-identified universe or not easily identified
23 universe.

24 This is Bill.

25 I think the reason that we've put this in the

1 next headings up there is to address some of the issues
2 that have already been touched on. One is to give us the
3 ability to identify and work with companies before they
4 get into an actual certification. And so I think that
5 partly addresses the what is an RPPC issue and also the
6 outreach issue, because I think what we're talking about
7 in this step and the next step that are identified is how
8 do we go about identifying people that make RPPCs,
9 notifying them that we believe that they make RPPCs and
10 then giving the opportunity to hash through those issues
11 before they actually end up in a certification.

12 And so I think that that's why this one and the
13 next item are up there, is to sort of give that early
14 warning sign to the companies to say, you know, a lot of
15 the issues we've identified already in terms of what is an
16 RPPC, who is a product manufacturer, all of those things
17 could be addressed through this part of the process. So
18 that's why we wanted to bring these issues to everybody's
19 attention.

20 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR
21 LEAON: That's a good segue to the next slide. And this
22 is I think new to the process, this step. So after we
23 identify a product manufacturer as selling products and
24 regulated RPPCs into the state, we want to notify them.
25 When we provide them with that notification, we want to

1 use that as an opportunity to do the type of outreach and
2 education that you were speaking to, George, to help them
3 understand the law prior to them being included in a
4 certification.

5 And as Bill was talking about, this will also
6 provide us the opportunity to work with product
7 manufacturers to weed out companies that may not be
8 regulated or companies that may only have a small impact
9 on California's waste stream. We can get more into the
10 specifics on this on whether we go through trade
11 associations or how to go beyond store surveys and
12 Internet surveys to have that broader impact. And I think
13 that's where we need to do some thought on this stuff is
14 how do we do that.

15 MR. POLLACK: Randy Pollack again.

16 I'm not sure where it fits in. I know last year
17 or two years ago where we changed the regulation where
18 it's a six-month sort of notice of when you would release
19 the names so that companies have at least six months to be
20 aware of that this is coming down the pipe, I would ask
21 maybe you make that even longer. Because for six months,
22 that doesn't really give companies any opportunity to make
23 any packaging change. I'm not saying a year would make
24 much of a difference, but they could demonstrate they are
25 starting to take some efforts. So that could be part of

1 the consideration.

2 RECYCLING TECHNOLOGIES MANAGER ORR: We actually
3 have that as a separate step. This would be an early
4 notice you are in there and the other part would be --

5 MR. POLLACK: That's all right.

6 STAFF COUNSEL BRANCH: One of the issues we run
7 into is even when we give just the six months' advance
8 notice, I think maybe we've had trouble identifying what
9 individual in a particular company we're supposed to send
10 this to. We, by default, have been just going to the
11 President of the company. When you have a huge company,
12 let's say, Walt Disney Corporation where the notification
13 went to Michael Eisner, and so it might be six months
14 before the applicable person even gets the notification
15 they might be certified.

16 So I'd be open to suggestions from people with
17 experience working with these sort of industries who
18 should we be targeting with these communications. And
19 where do we start with the research to find those people?

20 MR. POLLACK: I think maybe -- Randy Pollack.

21 I think one of the directions you should take
22 initially is, because they could be subject to fines, is
23 the general counsel's office. Because it seems they
24 probably review their mail more carefully for potential
25 items. Or in some instances whether there are folks like

1 Jack Withers Packaging that maybe you're familiar with,
2 whether it's their environmental specialist or their
3 sustainability coordinator, sometimes I know that's very
4 difficult to ratchet down to getting those names off the
5 web.

6 STAFF COUNSEL BRANCH: I'm wondering to what
7 extent -- we identify a company and then we're putting
8 them in the six-month advance notification if we should be
9 making phone calls perhaps to the companies saying who
10 should we send our communications that. Do you have an
11 environmental specialist.

12 Problem is, we've got limited staff and we're
13 dealing with a large amount of companies. So sometimes
14 we're limited in the time we can spend.

15 MR. MCANENY: This is Jack Mcaneny.

16 I think the challenge you'll face there is every
17 company is going to be organized so differently. I think
18 if you do follow through on this idea of notification of
19 identified product manufacturers, you could integrate that
20 as part of that initial outreach to have them inform you
21 who's the appropriate point of contact or maybe try to
22 work that into this initial notification that you're now
23 in this pool of product manufacturers that we believe are
24 regulated under this. Please help us understand who the
25 appropriate point of contact internally is for any future

1 communications, including certification requests and that
2 other stuff.

3 MR. ALEXANDER: This is Steve Alexander with ATR.
4 I worked in Corporate America for a Fortune 15 company
5 that had 120,000 people worldwide. If the notification
6 went into the chairman about something affecting our
7 packaging or health issues or went to the general counsel,
8 I got news for you, it didn't take us six months to be
9 notified of it. I think if you're looking to streamline
10 your ability to identify companies, I would think if you
11 select both the CEO and/or the general counsel, I think
12 you've covered your basis there. And I think you've got a
13 pretty good job making sure people then will be notified
14 fairly quickly down the food chain within the organization
15 to respond in a timely fashion.

16 MR. POLLACK: And Randy Pollack.

17 I'm not sure if there's something you can put on
18 the envelope also or to prioritize it or makes it a little
19 bit more important to some folks who are opening it.

20 STAFF COUNSEL BRANCH: Limited time offer.

21 MR. LARSON: Zero percent interest.

22 RECYCLING TECHNOLOGIES MANAGER ORR: Free money.

23 MR. YEDIDSION: All of that hinges upon
24 determining who needs to be notified though.

25 RECYCLING TECHNOLOGIES MANAGER ORR: Yeah. And I

1 think what we're sort of talking about is there's a dual
2 notification here. One is once you've been identified as
3 being in the pool and some of these issues can be
4 clarified then. And hopefully by the time you actually
5 got to notifying somebody in regard to a certification,
6 you would have that information already in place.

7 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR

8 LEAON: I think this is where your issue on the six month
9 where we should address it is on the initial notification
10 you're in the pool. We don't put them in the next
11 certification cycle.

12 That brings us to the next step which is the
13 selection process for deciding which product manufacturers
14 to certify. And I want to look at an earlier comment in
15 where we can address this.

16 RECYCLING TECHNOLOGIES MANAGER ORR: I think this
17 would be where.

18 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR

19 LEAON: The process we have been using and deciding which
20 companies to include in a certification cycle is that
21 companies that were out of compliance from the previous
22 certification cycle automatically in. Companies rolled
23 over from previous certification cycles through corporate
24 mergers through acquisitions, we had to drop them from the
25 previous certification cycle. We put them back in. So

1 those are like two off the top, those guys are in.

2 The third category were the newly identified
3 companies. And then if we needed to fill out the
4 balance -- and this is where we're limiting the number of
5 companies to no more than 100 companies in a certification
6 cycle. If the first three didn't get us to that number,
7 we would then go to the established pool of previously
8 certified companies and do a random drawing. So that's
9 where the random process comes in was in that very last
10 step.

11 RECYCLING TECHNOLOGIES MANAGER ORR: It also
12 comes in depending on how many new companies that you've
13 identified, it could also come into the previous one as
14 well.

15 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR
16 LEAON: That's true.

17 MR. YEDIDSION: Is it possible to have just a
18 token number of randoms regardless?

19 RECYCLING TECHNOLOGIES MANAGER ORR: That is
20 possible.

21 MR. YEDIDSION: So it's always there.

22 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR
23 LEAON: Yes. We can include that as an option.

24 MR. LARSON: Could I ask clarification on the
25 first category? It's previous companies that were asked

1 to certify and could not demonstrate compliance?

2 RECYCLING TECHNOLOGIES MANAGER ORR: Correct. So
3 under our current policy, if you will, if you were
4 previously asked to certify and you demonstrated
5 compliance, then you get a pass on the next certification.
6 But if you were asked to certify and your certification
7 didn't demonstrate compliance, then basically you would
8 stay in the pool until you came into compliance.

9 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR
10 LEAON: So getting to your question, George, on the number
11 of companies, just from a resource standpoint doing more
12 than 100 companies in certification cycle becomes really
13 problematic for us in terms of completing that
14 certification cycle in a timely fashion.

15 RECYCLING TECHNOLOGIES MANAGER ORR: But we're
16 open to options I think. Like Mike was saying, our
17 experience is that we've conducted a 500-company
18 certification. We conducted 1,000-company certification
19 that took us three years to do. And then the last several
20 years, we've been doing 100-company certifications which
21 are much more manageable. But, you know, if you have
22 another approach in terms of --

23 MR. LARSON: Well, I just want to be on the
24 record again that for a specific container product
25 manufacturer by Illinois Tool Works, which is an

1 industrial wipe that are used in manufacturing processes
2 that comes out of a polypropylene resin, polypropylene
3 resin is just very recyclable. But being able to find it
4 in sufficient quantities posed a huge difficulty. As a
5 result, the manufacturer company under Illinois Tool Works
6 was fined and labeled their products "not for sale in
7 California." But that very container continues to be
8 utilized by competitors without regulation, which to me
9 raises a very serious question of the equity of the
10 enforcement where the selected company is now in the
11 barrel. And until they can demonstrate or change resin
12 types because the polypropylene or technical assistance
13 could identify where that material might be obtained
14 gladly come into compliance.

15 RECYCLING TECHNOLOGIES MANAGER ORR: Or use one
16 of the new compliance options.

17 MR. LARSON: What are the new compliance options?

18 RECYCLING TECHNOLOGIES MANAGER ORR: 1344,
19 putting it into something else.

20 MR. YEDIDSION: That is part of 1344 though.

21 MR. LARSON: That's correct. I think part of the
22 regulatory process here is how will the 1344 play out. If
23 it resolves the issue, then that's fine. But there's
24 still just a question of equity across the board for
25 selecting a small number of companies.

1 RECYCLING TECHNOLOGIES MANAGER ORR: So that
2 question comes in in terms of identifying direct
3 competitors or how would you sort of see that playing out,
4 because --

5 MR. LARSON: Well, I certainly don't want to
6 spread the grief to other companies that are using the
7 same type of container. So I don't know that's an option
8 my client would suggest. We just happen to be in that
9 particular type of container having difficulty not finding
10 postconsumer resin and as a result don't sell the product
11 here. I don't know that not selling the product here
12 achieves the environmental goals that are stated to be the
13 intent of the law.

14 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR
15 LEAON: It sounds like this gets back to looking at
16 including it in certifications, companies that are doing
17 business in the same industry segment. Or alternatively,
18 if it were possible, looking at companies that are using
19 the similar types of packaging and including them in the
20 same certification.

21 RECYCLING TECHNOLOGIES MANAGER ORR: I'm not sure
22 where you're going on that one, George.

23 MR. LARSON: I'm just leaving that one to you.

24 MR. POLLACK: I think just maybe a little bit in
25 response -- Randy Pollack -- is that many times you have

1 companies -- I think it's very difficult to try to figure
2 that out, because you could have companies that sell a
3 bunch of product lines and fully may be within the
4 confines of the law. And I think what one of my concerns
5 is making sure we don't keep coming back around to the
6 same companies and asking one of their affiliates and
7 saying, oh, here we found their name because they're an
8 affiliate of this other company and then put them back
9 into the pool. So many times some of the same companies
10 are getting hit more than once within a couple year
11 period.

12 RECYCLING TECHNOLOGIES MANAGER ORR: Okay.

13 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR
14 LEAON: Okay. The next slide concerns notification of
15 companies to be certified, and this is where this
16 six-month issue would come in. But again, I think on the
17 front end, we want to include as part of the process a
18 notification step that notifying the companies are in the
19 pool and then taking time to work with them, make sure
20 they understand the law. So that when we get to this
21 step, a six-month advance notice would be adequate. So I
22 think our thought is that we would keep this to six-month
23 advance notification of companies that are going to be
24 asked to certify.

25 MR. POLLACK: Randy Pollack.

1 I think we're trying to figure out how to extend
2 that out a little bit. If you're doing six months for the
3 2009 compliance year, that would make sense to me. But if
4 you're saying that for now for 2008 we're going to ask for
5 compliance, I think that may not be enough time for
6 companies if they want to decide to form repackaging.
7 It's probably not going to be in compliance for 2008.

8 RECYCLING TECHNOLOGIES MANAGER ORR: You're maybe
9 suggesting a phase-in for new regulations or newly
10 identified companies or something like that.

11 MR. POLLACK: I think newly identified companies.

12 RECYCLING TECHNOLOGIES MANAGER ORR: So --

13 MR. CLAES: Why don't you tag onto the end of
14 that for newly identified companies.

15 MR. POLLACK: And I believe in Oregon -- Randy
16 Pollack. I believe in Oregon it's set up where you have I
17 think at least a year's notice before --

18 MR. LARSON: It's prospective. It projects
19 ahead, and they make a determination based upon a
20 calculation methodology I'm not sure of that for the year
21 2008 industry is in compliance based on information they
22 were able to gather in 2007. And they just recently made
23 their first determination that for 2006 -- don't quote me
24 on that -- the 25 percent rate was not achieved in
25 certain. But anyway, it's advanced projection rather than

1 retroactive two years ago when you can't make any
2 decisions about procurement.

3 RECYCLING TECHNOLOGIES MANAGER ORR: Now have
4 they notified any companies yet to certify, or has it been
5 industry-wide so far?

6 MR. LARSON: Right now, they've broken the issue
7 down into resin type determinations. The first one was
8 the overall rate was not achieved in 25 percent. Then I
9 think a week ago they announced the PET and the HTPE resin
10 types achieved the 25 percent and that all other resins
11 had not. It's a work in progress, but I read that most
12 recent one to be PET and HTPE containers are in compliance
13 and they're going to focus on the other types. But
14 Mr. Spendilow would clarify that.

15 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR
16 LEAON: The other aspect to the advanced notice, concerns
17 have been brought up that if we provided too much advanced
18 notice that might allow product manufacturers to only plan
19 to be compliant when we give them notice that you're going
20 to have to certify for that year. So the idea of
21 providing them a notice of less than a year would head off
22 that potentiality. That way product manufacturers would
23 not have any certainty until they're well into compliance
24 year of whether they're going to be asked to certify or
25 not with the idea that that would encourage product

1 manufacturers to meet the intent of the law to be
2 compliant at all times.

3 MR. LARSON: If I could respond. I think your
4 point is well taken that it may impact. But right now
5 it's the gotcha approach versus giving you some notice
6 that you are going to be held accountable for compliance
7 to take some options. And I make the analogy that the
8 Board exercises that authority with their local
9 jurisdictions who fail to make their diversion goal
10 statutory requirements by utilizing compliance orders and
11 working with the jurisdiction to achieve their diversion
12 requirements under the law or a good faith effort as
13 determined by the Board.

14 There used to be a compliance schedule options
15 under this law, which as you know now is just a chart that
16 says if you've done this, you pay that. Again, that's the
17 gotcha factor where I think education would indicate the
18 need for education on the regulated community can happen
19 prior to new products coming on during the manufacturing
20 and sale of products that is ongoing. And if someone is
21 selected and cannot in whatever time frame demonstrate
22 compliance that there ought to be a mechanism that allows
23 them to take specific actions within a certain time frame
24 to come into compliance. So it's the technical assistance
25 versus the gosh yeah.

1 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR

2 LEAON: Okay. I'm just capturing that.

3 Okay. The next issue concerns container
4 determination appeals. The way the statute and
5 regulations are currently written, there's no internal
6 appeal process within the Board to resolve container
7 disputes between staff and the product manufacturers. The
8 way the process currently works if staff and the product
9 manufacturer can't come into agreement, that might go to
10 hearing before an ALJ and that decision would come back to
11 the Board.

12 The thought is that we should probably consider
13 having an internal appeal process rather than going
14 directly to an administrative hearing. Having an appeal
15 process possibly to the Executive Director to resolve
16 those disputes without having to go to hearing. But that
17 option would still be available to the product
18 manufacturer if there was still a dispute regarding
19 whether a container is in or out.

20 So any thoughts on what that appeal process
21 should look like and should that be to the Executive
22 Director or the Chief Counsel or --

23 MR. POLLACK: Randy Pollack.

24 I can't remember when we did the regulations a
25 couple years ago, but laying out what an ALJ could

1 consider. We didn't have anything about the Board --
2 doesn't go up to the Board first to make a determination
3 and then do we go to an ALJ? I grabbed the wrong --

4 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR
5 LEAON: It goes to the ALJ first and then the decision
6 goes to the Board.

7 MR. POLLACK: I think we would all agree that we
8 would like to see an internal process set up just so that
9 we could lay out a case and try to resolve it informally.
10 I think everybody -- or most of my clients would be in
11 agreement with that. We believe because -- I don't think
12 anybody really wants to go to administrative law judge
13 unless it's as a last resort. If we have discussions
14 among -- maybe it is the Executive Director, since Mark's
15 not here, that we be able to present the case to him and
16 have him make the determination. And in that case, if
17 you're not happy with that, we can proceed to
18 administrative law judge.

19 But I would maybe suggest that it's an option
20 that companies have an option whether they want to go
21 through the informal process or go right to the
22 administrative law judge.

23 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR
24 LEAON: Okay. Any other comments or thoughts on that from
25 folks on the phone?

1 MR. CLAES: If we have comments, we'll let you
2 know.

3 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR
4 LEAON: Let's go on to the next issue which is factors for
5 calculating penalties. The regulations in the statute do
6 set forth violation. And the regulations make specific
7 associated penalties for those specific violations. And
8 the regulations also include factors that the Board can
9 consider in determining those penalties. And we want to
10 take a look at those and get feedback on whether those
11 were appropriate or we need some additional factors or we
12 want to revise these factors that are already in the
13 regulations. The factors currently spell out in the regs
14 include impact on diversion and sustainable markets, size
15 of company, degree of cooperation, technical challenge,
16 and history of compliance.

17 MR. POLLACK: Mike, Randy Pollack.

18 Does that conform with what the ALJ can use? I
19 know several of them are. I'm not sure if there's any on
20 that list that maybe --

21 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR
22 LEAON: Since it's in the regulation, the ALJ would be
23 able to.

24 MR. POLLACK: But I'm curious what we had
25 outlined for an ALJ to consider. Was that more expansive

1 than what -- that's not off what the administrative law
2 judge could consider. We left it very broad.

3 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR

4 LEAON: I don't recall, Randy. I'd have to go back.

5 MR. POLLACK: Double check the regulation. I'm
6 curious if there's any factors on there that maybe should
7 be included under that.

8 MR. MCANENY: The regs currently reference the
9 ALJ or the Board.

10 MR. POLLACK: Okay.

11 MR. MCANENY: There maybe additional ones.

12 RECYCLING TECHNOLOGIES MANAGER ORR: Jot that one
13 down just to clarify what factors the ALJ versus the
14 Board.

15 MR. POLLACK: Thanks.

16 MR. LARSON: Sorry. George Larson. I stepped
17 out of the room for a minute.

18 Did this discussion bring into consideration
19 reestablishing a compliance agreement process to
20 substitute it for the enforcement schedule kind of thing?

21 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR

22 LEAON: We haven't had a discussion on that yet, but we
23 can certainly do that. I think our thought on that is
24 probably outside the scope of the rulemaking, because the
25 Board certainly has discretionary authority to reach

1 settlement agreements with companies and to determine
2 specifically what they're going to require of a company in
3 a settlement.

4 RECYCLING TECHNOLOGIES MANAGER ORR: This is
5 Bill.

6 This has come down to a term of art versus
7 differences in reality. I think it was the '97 through
8 '99 certification there was this concept of compliance
9 agreements that was developed to bring people into
10 compliance. And our experience was, first of all, it
11 didn't work very well. A lot of them were not returned.
12 A lot of them were not actually executed. And we were
13 operating so far in arrears that it was sort of a survival
14 mechanism to keep moving forward.

15 In the last couple of certifications, we've been
16 using a different term which is stipulated settlement
17 agreement. And in the most recent certification that was
18 completed, there were penalties associated with some of
19 those. But in many instances, the penalties were
20 suspended subject to the company coming into compliance.
21 So in a lot of ways, there's probably not much of a
22 difference. And Legal can stop me if I am stepping on
23 my -- something. But anyway, stepping on my toes, putting
24 my foot in my mouth. But that there really isn't much
25 difference between a compliance agreement and a stipulated

1 settlement, except whether or not fines are imposed.

2 MR. LARSON: Okay.

3 RECYCLING TECHNOLOGIES MANAGER ORR: So I think
4 as a mechanism, that's there.

5 What we did also with the stipulated settlement
6 agreements is we really cleaned up the process a lot. We
7 changed how they were done, that they in a sense weren't
8 pre-approved by the Board. And then a lot of them that
9 had been pre-approved by the Board were not actually ever
10 signed by the company. They don't even get taken to the
11 Board in a sense until they've been signed by the company.

12 So I guess, you know, as a concept, I think
13 everybody is interested in working toward compliance,
14 whether we call it a stipulated settlement agreement or a
15 compliance agreement. A lot of it has to do with whether
16 or not the Board is going to choose to impose fines or
17 not.

18 STAFF COUNSEL BRANCH: Can I jump in? I think
19 settlement agreements are always going to be an option
20 when it comes to enforcement. I don't think if we amend
21 the regulations that that's going to be taken off the
22 table. I'm also not sure if the regulations are a proper
23 venue for memorializing that they're an option. It just
24 seems like excess verbiage when we have implied authority
25 to do it.

1 MR. LARSON: I almost thought your description,
2 Bill, offered some relief until, Harllee, you just said
3 you don't think it's the appropriate place to do it. I
4 think it's very much the appropriate place to do it,
5 because, for example, my Illinois Tool Work client, one
6 company is under the 2005 certification under
7 consideration for a penalty. I have communicated on
8 numerous times sometimes to staff's shagreen because I
9 have to go to the Executive Director just to find out
10 what's the status of my client's case. And there's the
11 due process thing. I'm just lost. We're lost until you
12 guys call us and say, "Here's your penalty."

13 Maybe this regulation could spell out process
14 wise what you're going to do within some reasonable time
15 frame and what conditions might -- once you come up with a
16 final determination of non-compliance, what a stipulated
17 agreement might enable a non-compliant company to do to
18 make amends, including paying penalties. I'm not trying
19 to get out of paying penalties. If we can make changes in
20 business operations to bring the company into compliance,
21 we'd like to be able to demonstrate that. And the company
22 that is out of compliance that's owned by ITW, they
23 purchased as a corporate procurement after the year for
24 which they're not found in compliance. Maybe that's a
25 separate issue. We just inherited it. And it's no

1 argument on the part of the company. They're just not in
2 compliance. We just want to sit down, negotiate it out,
3 tell us what -- we'll tell you what we're going to do to
4 come into compliance, and pay a fine and move on.

5 RECYCLING TECHNOLOGIES MANAGER ORR: I think
6 we're here to take those comments, and we'll definitely
7 take them under consideration.

8 MR. LARSON: Thanks.

9 MR. POLLACK: Randy Pollack.

10 I would just say I think the compliance
11 agreements, settlement agreements, however you label it,
12 has been very important. And the respect that many
13 companies who are not familiar with the law get caught up
14 in this and then they come to the Board or to the staff
15 and say, look at, I can't do anything different. It's
16 technologically infeasible for me to do it. What this
17 process allows them to do is to provide the Board with
18 information into the future after they do their testing to
19 prove they can't maybe make that certain container, which
20 sort of alleviates them from going through a whole
21 administrative law judge proceeding that costs everybody
22 time and money to try to accomplish probably the same
23 purpose. So we're very supportive of that, and I'm glad
24 to hear that that settlement thing is still in the works
25 and still being utilized.

1 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR

2 LEAON: Okay. Any specific comments on the factors for
3 calculating penalties? Anything else you'd like to see
4 added to that list?

5 MR. LARSON: Are you referring to the factors
6 that are in current regulation?

7 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR

8 LEAON: Yes. The impact on diversion and sustainable
9 markets, size of company, degree of cooperation, technical
10 challenges, and history of compliance.

11 MR. POLLACK: Randy Pollack.

12 Again, it says it's not limited to. So we leave
13 it like that when there's unique situations that you have
14 the ability to take that into consideration.

15 MR. LARSON: Is the low volume of material as it
16 might impact the overall environment still a factor?

17 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR

18 LEAON: That's not spelled out.

19 RECYCLING TECHNOLOGIES MANAGER ORR: That falls
20 under that one heading in the red, though.

21 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR

22 LEAON: The technical challenges.

23 RECYCLING TECHNOLOGIES MANAGER ORR: No.

24 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR

25 LEAON: The impact on diversion.

1 RECYCLING TECHNOLOGIES MANAGER ORR: Yeah. The
2 other thing is just by practice, those of you who have
3 been around the game for a while know, for a while we were
4 screening smaller companies with smaller impacts on the
5 waste stream on the back end of the certification. And
6 we've been endeavoring to prescreen them on the front end
7 so that we don't bring in somebody that's sold three
8 containers of something into California.

9 CHAIRPERSON BROWN:

10 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR
11 LEAON: Okay. If there's no further comment on that, I
12 think what we need to discuss is of this process that
13 we've laid out, how much of that needs to be in
14 regulation. You know, the first step with the
15 identification, I'm thinking that probably does not need
16 to be included in the regulation.

17 The notification part that initial notification
18 which is a new step where once we've identified companies,
19 we notify them, you're in the pool. And at that point, we
20 want to do some education and outreach with these
21 companies. Is that something -- does anybody have any
22 thoughts about whether you want to see that specified in
23 the regulations?

24 I'm thinking that the steps that would be
25 important for the product manufacturers would include that

1 initial step. Also clarifying that once you're
2 identified, there will be -- I don't know if that needs to
3 be in regulation. We'll certainly work with them to
4 educate them on the regs.

5 The next step is detailing how we're going to
6 select companies to be certified. That's another element
7 that could go into the regulations. That one, and that
8 would include how much advance notice they would receive.
9 The appeal process again, a question there. Should that
10 be in the regulations. So I think those elements, the
11 initial notification, the notification that you're going
12 to be certified, and container determination appeals.

13 I guess my thought is that that would probably be
14 good to specify that in the regulations to provide
15 direction to the regulated community so they better
16 understand the process.

17 MR. POLLACK: That sounds good.

18 RECYCLING TECHNOLOGIES MANAGER ORR: I see heads
19 shaking in the room.

20 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR
21 LEAON: Okay. Well, we're approaching the end of the
22 meeting here. We're at the point where we have public
23 comment. Is there anybody on the phone that wasn't part
24 of the Advisory Committee that has any questions?

25 RECYCLING TECHNOLOGIES MANAGER ORR: Or that's on

1 the Advisory Committee and hasn't said anything up until
2 this point? Anybody home?

3 MR. POLLACK: Randy Pollack.

4 I'll add one thing here. I know I sound very
5 repetitive. I think the most important item that we need
6 to determine is what is an RPPC. Because around that I
7 think a lot of things fall.

8 MR. MCANENY: Just as a side bar comment, which
9 would be definitely something for the parking lot to build
10 off Randy's point. As that clarification develops, I
11 think there's an opportunity to make greater use of the
12 staff's website in terms of pictures and other
13 interpretations out there for folks to use as a reference.
14 And, you know, I can speak for at least P&G that if
15 there's a way we can provide generic packaging to
16 facilitate, we'd be more than happy to do that. As this
17 process continues, that's something to keep in mind.

18 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR

19 LEAON: Okay. Any other comments or questions?

20 All right. Well, the next step in the process is
21 for staff to take the input we've received today and get
22 down to work on developing a draft revision of the
23 regulations. Once we have that ready, we'll get that out
24 to the Advisory Committee, and we'll want to give you at
25 least two weeks to review that before our next meeting on

1 May 16th.

2 In addition, we will be sending out a survey
3 probably in the next day or two as a follow up to this
4 meeting. And we definitely want your input. And we're
5 going to ask you to provide feedback to us on which of
6 these concepts and issues we've discussed today, their
7 relative importance to you. Is it very important? Is it
8 not important? Do you not have an opinion on that
9 particular topic? So we'll be asking you to provide us
10 with that feedback. And we'd probably like to get those
11 surveys back within a week of you getting those. So
12 sometime towards the end of next week and probably be
13 easiest to fax those to our RPPC fax line. Do you have
14 that? We'll include that fax number in the e-mail and
15 the survey.

16 I want to thank everybody's participation,
17 both --

18 MR. PADIA: Michael, this is Tom Padia. Is the
19 meeting on the 16th, is that going to be the same time,
20 9:00 to 12:00?

21 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR
22 LEAON: I think we have a longer meeting. It's an all-day
23 meeting on the 16th. I believe, yes, we do start at 9:00.
24 But since we'll be looking at actually changes to the
25 regulation, that meeting will be more intense than this

1 one, because we'll have a lot of information to get
2 through.

3 MR. PADIA: So that will be all day?

4 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR

5 LEAON: Yes.

6 MR. PADIA: Thank you.

7 PLASTICS RECYCLING TECHNOLOGY SECTION SUPERVISOR

8 LEAON: So again I want to thank our Advisory Committee
9 members for being here today and providing us with this
10 valuable input. Thank you very much.

11 (Thereupon the California Integrated Waste
12 Management Board Public Hearing for Temporary
13 Waiver Regulations adjourned at 12:07 p.m.)

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1 CERTIFICATE OF REPORTER

2 I, TIFFANY C. KRAFT, a Certified Shorthand
3 Reporter of the State of California, and Registered
4 Professional Reporter, do hereby certify:

5 That I am a disinterested person herein; that the
6 foregoing hearing was reported in shorthand by me,
7 Tiffany C. Kraft, a Certified Shorthand Reporter of the
8 State of California, and thereafter transcribed into
9 typewriting.

10 I further certify that I am not of counsel or
11 attorney for any of the parties to said hearing nor in any
12 way interested in the outcome of said hearing.

13 IN WITNESS WHEREOF, I have hereunto set my hand
14 this 1st day May, 2007.

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